

Aneesh vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1767336

Court : Kerala

Decided On : May-29-2020

Judge : Honourable Mr. Justice Ashok Menon

Appeal No. : Bail Appl./3046/2020

Appellant : Aneesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON FRIDAY, THE 29TH DAY OF MAY 2020 / 8TH JYAISHTA, 1942 Bail Appl.No.3046 OF 2020 AGAINST THE ORDER/JUDGMENT IN CRMC 74/2020 OF DISTRICT COURT & SESSIONS COURT, PALAKKAD CRIME NO.182/2020 OF Alathur Police Station , Palakkad PETITIONERS/A2 TO A5:

1 ANEESH, AGED 37 YEARS S/O.RAMAKRISHNAN, KATHAMPOTTA, CHITTILENCHERRY, 2 GURUVAYOORAPPAN, AGED 31 YEARS S/O.CHANDRAN, KATHAMPOTTA, CHITTILENCHERRY, 3 MANIKANDAN, AGED 37 YEARS S/O.CHANDRAN, KATHAMPOTTA, CHITTILENCHERRY, 4 MANIKANDAN, AGED 34 YEARS

S/O.VELAYUDHAN, KATHAMPOTTA, CHITTILENCHERRY, BY ADV.
SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENTS/COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031. 2
THE SUB INSPECTOR OF POLICE, ALATHUR POLICE STATION, ALATHUR,
PALAKKAD-678 541. R1 BY ADDL.DIRECTOR GENERAL OF PROSECUTION
OTHER PRESENT: SRI. SURESH C.K THIS BAIL APPLICATION HAVING
COME UP FOR ADMISSION ON 29.05.2020, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

ASHOK MENON, J.

----- BA No.3046 of 2020 -----
Dated this the 29th day of May, 2020

O R D E R

This is a petition for anticipatory bail filed under Section 438 Cr.PC.

2. Petitioners are accused 2 to 5 in Crime No.182/2020 of Alathur Police Station for having allegedly committed offences punishable under Sections 143, 147, 148, 294(b), 324, 326, 341 and 307 read with

Section 34 IPC. The prosecution case in brief is that on 23.3.2020 at about 9.45 p.m., the petitioners were members of an unlawful assembly, the common object of which was to murder the defacto complainant who had allegedly caused interruptions to the illicit distillation of arrack by the accused persons. They committed riot armed with deadly weapons like swords, iron rods etc., and inflicted grievous injuries to three persons, including the defacto complainant, and attempted to murder them. The learned counsel for the petitioners submits that the main allegation is against the first accused and the remaining accused had only supported him in prosecution of the common object of the unlawful assembly and therefore, they may be granted pre-arrest bail.

3. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

4. The learned Public Prosecutor points out that the fourth accused has criminal antecedents. More over, the injuries sustained to the three persons are very serious and could have proved fatal. The injuries were on the scalp inflicted with deadly weapons. The petitioners cannot be released on pre-arrest bail, as there is every possibility that they may abscond or even get involved in similar offences. Releasing them at this stage may even be a threat to the injured and the witnesses. Considering all these circumstances, it is submitted that the application for pre-arrest bail may be dismissed.

5. After considering the entirety of the facts

and circumstances involved in this case and the nature of the injuries sustained to the persons, including the defacto complainant, I find that this is not a fit case where the extra ordinary jurisdiction of this Court to grant pre-arrest bail can be exercised in favour of the petitioners. The learned Sessions Judge had also dismissed the application under Section 438 Cr.PC filed by the petitioners. The petitioners are therefore not entitled to any relief from this Court.

6. The petitioners are, therefore, directed to surrender before the investigating officer within two weeks. After interrogation, they shall be produced before the jurisdictional court and before that court they are at liberty to apply for regular bail. The

application for regular bail so filed by the petitioners shall be considered and preferably disposed of by the jurisdictional court, on merits, on the very same day itself. With these observations, the Bail Application is dismissed. Sd/- ASHOK MENON JUDGE
jg APPENDIX PETITIONER'S EXHIBITS ANNEXURE-A : COPY OF FIR NO.182/2020 OF ALATHUR POLICE STATION, PALAKKAD DATED 24.3.2020. ANNEXYURE-A : TRUE COPY OF THE ORDER IN CRL.MC NO.74/2020 OF THE COURT OF SESSION, PALAKKAD DIVISION DATED 13.5.2020