

Arunkumar S., vs State of Kerala,

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Court : Kerala

Decided On : Jun-30-2020

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : Bail Appl./3738/2020

Appellant : Arunkumar S.,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V TUESDAY, THE 30TH DAY OF JUNE 2020 / 9TH ASHADHA, 1942 Bail Appl..No.3738 OF 2020 CRIME NO.1898/2019 OF SOORANADU POLICE STATION , KOLLAM PETITIONER: ARUNKUMAR S., AGED 33 YEARS S/O. SANTHAKUMAR, THEKKADATHAYYATH PADINJATTAKIZHAKKU, SOORANADU NORTH, KUNNATHOOR, KOLLAM DISTRICT-690561. BY ADV. SRI.R.REJI RESPONDENT: STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031, REPRESENTING THE STATION HOUSE OFFICER, SOORANADU POLICE STATION, KOLLAM DISTRICT. SRI

T.R RENJITH, PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30.06.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Bail Appl.No.3738 OF 2020 2

ORDER

This application is filed under Section 438 of the Cr.P.C.

2. This application is taken up and heard through Videoconferencing.

3. The petitioner is the 11th accused in Crime No.1898 of 2019 of

the Sooranadu Police Station. He along with the rest of the accused are alleged to have committed offence punishable under Sections 294(b), 452, 341, 324, 427, 120(B) read with section 34 of the Indian Penal Code and also under Section 27(2)(1)(c) of the Arms Act.

4. The prosecution allegation is that on 8.11.2019, at about 10.15

pm, pursuant to a conspiracy hatched by the accused, the accused Nos.2 to 5 trespassed into the house of the de facto complainant after destroying the front door and attacked the de facto complainant and his wife with deadly weapons like sword and iron rod. Accused Nos. 1, 6, and 10 are alleged to have parked their bikes outside the residential home of the de facto complainant and threatened the neighbours. After commission of the offence, they are alleged to have aided the accused Nos.2 to 5 to escape from the scene of crime. While they were fleeing, the 4 th accused was apprehended by

Bail Appl.No.3738 OF 2020 3 the locals and he was handed over to the police. The de facto complainant and his wife suffered serious injuries at the hands of the accused. The investigation revealed that the son of the de facto complainant, one Aadarsh, and his friends had assaulted the 1 st accused and the petitioner herein during the previous Onam. The petitioner who was injured in the said incident lodged a complaint based on which, Crime No.1557 of 2019 was registered at the Sooranad Police Station. It was as a retaliatory measure that the accused 1 and

11 recruited the rest of the accused who had committed the offence.

5. Sri. R.Reji, the learned Counsel appearing for the petitioner,

submitted that the petitioner is innocent. He would point out that the petitioner was not even there at the scene of crime. The offence under Section 326 of the IPC was later incorporated. He would also contend that there are serious discrepancies in the prosecution version.

6. The learned Public Prosecutor has opposed the prayer. It is

submitted that the entire financing was done by the petitioner herein and from the call data records of the petitioner, it is clearly discernible that he was in constant contact with the principal accused prior to and subsequent to the incident. It is further submitted that the allegations are grave and the 8 th accused as well as the petitioner are yet to be arrested.

7. I have considered the submissions advanced and have gone through the materials which are made available by the learned Public Bail Appl..No.3738 OF 2020 4 Prosecutor.

8. It appears from the wound certificate that serious injuries were

sustained by the de facto complainant and his wife. Prima facie, there are materials which clearly links the petitioner herein with the rest of the accused. At this stage, it would not be possible to say that the allegations against the petitioner are frivolous. In the facts and circumstances, I am satisfied that this is not a fit case warranting invocation of the powers under Section 438 of the Cr.P.C. in favour of the petitioner herein.

9. At this stage, the learned counsel prayed that the petitioner is

prepared to cooperate with the investigation and sought for issuance of appropriate directions. I direct the petitioner to surrender before the Investigating officer as expeditiously as possible. After thorough interrogation, the petitioner shall be produced before the court having jurisdiction. If an application for bail is preferred, the same shall be considered and orders shall be passed expeditiously

and on its merits.

This application will stand dismissed. Sd/- RAJA VIJAYARAGHAVAN V JUDGE ps

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