

Sumesh vs State of Kerala

Sumesh vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1780350

Court : Kerala

Decided On : Jul-30-2020

Judge : Honourable Mr. Justice Ashok Menon

Appeal No. : Bail Appl./4024/2020

Appellant : Sumesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON
THURSDAY, THE 30TH DAY OF JULY 2020 / 8TH SRAVANA, 1942
Bail Appl..No.4024 OF 2020 CRIME NO.1640/2019 OF Karunaagapally
Police Station , Kollam PETITIONER/ACCUSED: SUMESH AGED 22
YEARS SUMESH BHAVANAM, MANAPPALLY SOUTH, SRPM P.O,
THAZHAVA, KOLLAM. BY ADV. SRI.JOSEPH GEORGE
RESPONDENT/STATE: STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-
682031. OTHER PRESENT: SRI.C.N.PRABHAKARAN SR PP THIS
BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.07.2020, THE COURT ON THE SAME DAY PASSED THE

FOLLOWING: -2-

ASHOK MENON, J.

----- B.A. No. 4024 of 2020

----- Dated this the 30th day of July, 2020

O R D E R

This is an application for anticipatory bail.

2. The petitioner herein is the 2nd accused in Crime No.1640/2019 of Karunagappally Police Station, for having allegedly committed offences punishable under Sections 395, 341, 324 and 363 of the I.P.C.

3. The prosecution case in brief is that on

22.10.2019 at about 11.00 PM, the defacto complaint was wrongfully restrained by the applicant and other co-accused at Kambissery-Manappally Pubic Road, while he was coming on his scooter. Accused 1 and 2 also had reached there on a motor cycle and had stopped the defacto complainant on the way. Subsequently, accused 1 and 2 attacked him. Accused 3 to 8 also joined them in three motor cycles thereafter and all of them jointly attacked the defacto complaint with dangerous weapons, like iron rods, iron pipes, etc. and caused injuries and snatched away his handbag robbing him of Rs.18,300/-.

4. The petitioner would contend that the present crime is registered as a counter-blast to a complaint filed against the defacto complainant for attacking the 3rd -3-

accused and his relative, a lady, in consequence of which, they had also filed complaints, but no action was taken by the police. It is stated that the defacto complaint has in

order to escape from the allegations made against him by

the lady, deliberately implicated the applicant, who is serving in the Army and foisted a false case against him.

5. Heard the learned Counsel for the petitioner and the learned Public Prosecutor.

6. It is submitted by the learned Prosecutor that some of the accused in this case have criminal antecedents

and some cases were registered against some

Considering the gravity of the offence and the manner in which the defacto complainant was attacked, it is submitted by the learned Public Prosecutor that the petitioner may not be granted the privilege of a pre-arrest bail in this case and it is also submitted that he has to be subjected to custodial interrogation for the purpose of recovery.

7. It is pointed out by the learned Counsel for the petitioner that in the versions in the F.I. Statement, and

Section 161 Cr.P.C. Statement given by the defacto complainant are at variance, regarding who had actually attacked the defacto complainant in the first instance.

-4- Even though the rank of the accused is narrated as 2nd accused, in the 161 statement he clarifies that it was 1st and 3rd accused Chandu, who had come initially in the first instance and attempted to snatch the handbag and attacked the defacto complainant. According to that statement, the petitioner had only reached subsequently, and joined the others.

8. Considering the entirety of the facts and circumstances of the case, and the failure on the part of

the prosecution to produce any document regarding the antecedents of the petitioner, I am of the opinion that the petitioner is entitled to a pre-arrest bail in this case.

9. In the result, the application for anticipatory

bail is allowed and the petitioner is directed to surrender before the Investigating Officer within two weeks. After interrogation, in the event of his being arrested, he shall be released on bail on execution of bond for Rs.50,000/- (Rupees fifty thousand only), with two solvent sureties for the like amount each to the satisfaction of the Investigating Officer, and on the following conditions:

(i) He shall appear before the Investigating Officer as and when called for;

(ii) He shall not influence or intimidate witnesses or tamper with evidence; and

(iii) During the bail period, he shall not get involved in -5- any similar offences. In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court. Sd/- ASHOK MENON
JUDGE dkr

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com