

Anwar vs State of Kerala

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Court : Kerala

Decided On : Jul-30-2020

Judge : Honourable Mr. Justice Ashok Menon

Appeal No. : Bail Appl./4258/2020

Appellant : ANWAR

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
AGAINST THE ORDER/JUDGMENT IN CRMC 714/2020 OF DISTRICT
COURT & SESSIONS COURT, TRIVANDRUM CRIME NO.337/2020 OF
Varkala Police Station , Thiruvananthapuram PETITIONER/S: 1 ANWAR
AGED 22 YEARS S/O.NAZARULLA, MANZILA MANZIL, THEKKUVILA
HOUSE, RAMANTHALI VARKALA, THIRUVANANTHAPURAM
DISTRICT, THIRUVANANTHAPURAM PIN- 695 141. 2 JAVAS,
S/O.NAVAS, PLAVILA HOUSE, KOTTUM MOOLA MAIDHANAM
VARKALA, THIRUVANANTHAPURAM DISTRICT PIN- 695 141. * 3.
NAWAB, AGE 22, S/O.NAVAS, KANALPURAMBOKU, MAIDHANAM,

VARKALA, THIRUVANANTHAPURAM - 695 141. *(NAME AND ADDRESS OF THE THIRD PETITIONER IS INCLUDED AS PER

ORDER DATED 20.8.2020 IN CRL.MA NO.1/2020 IN BA NO.4258/2020)

BY ADV. SRI.SHAJIN S.HAMEED RESPONDENT/S: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM 682 031. 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:

ORDER

Dated this the 30th day of July 2020 Application for anticipatory bail under Section 438 Cr.P.C. The applicants are accused Nos.1 and 3 in Crime No.337 of 2020 of Varkala Police Station for having allegedly committed offences punishable under Sections 341, 294(b), 323, 324, 326 and 427 r/w Section 34 of the Indian Penal Code.

2. The prosecution case in brief is thus: Due to

previous enmity with the defacto complainant, the applicants were allegedly lying in wait for him. Seeing the defacto complainant and his brother coming on a motor cycle, the accused 1 and 2 armed with iron rods and accused No. 3 armed with sticks, attacked the defacto complainant and his brother and both of them sustained fracture injuries. They had attempted to hit on the head of the defacto complainant which

could have even caused his death. And thus, the applicants allegedly attempted to commit culpable homicide.

That apart, the defacto complainant also lost Rs.3,500/- and his mobile phone worth Rs.5,000/- in the incident. The applicants would contend that they are innocent and the allegations are false and frivolous and that there was no previous enmity as pointed out. Even going by the F.I.Statement, the incident had occurred

at the spur of the moment and the iron rod was picked from the place of incident, and so the allegation that they were lying in wait for the defacto complainant and his brother is not apparently true. Therefore, they may be released on pre-arrest bail, plead the applicants.

3. The learned Public Prosecutor submits that the

applicants were using dangerous weapons with which even death could have been caused to the defacto complainant and his brother, and both of them had sustained grievous hurt. The weapons have not yet been recovered. They will have to be subjected to custodial interrogation and therefore, the bail application may be dismissed.

4. Considering the entirety of the facts and circumstances of this case, I find that the applicants are not

entitled to the extra ordinary remedy of pre-arrest bail in this matter because they have attacked the defacto complainant and his brother and caused grievous hurt to both of them. The weapons used by the applicants will have to be recovered and therefore, they will have to subject themselves to custodial interrogation.

The bail application is therefore, dismissed and the applicants are directed to surrender before the Investigating Officer within one month, and in the event of their being arrested, they shall be produced before the jurisdictional magistrate before whom the applicants are at liberty to apply for a regular bail which shall be disposed of preferably on the same day. Sd/- ASHOK MENON JUDGE Dxy

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