

(2021) 03 KL CK 0176

In the High Court Of Kerala

Case No : Bail Application No. 2158 Of 2021

Abdul Asees And Ors

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 17-03-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120(B), 395

Citation : (2021) 03 KL CK 0176

Hon'ble Judges : Ashok Menon, J

Bench : Single Bench

Advocate : T. Madhu, C.R Saradamani, V. Sreeja

Final Decision : Allowed

Judgement

1. Application for regular bail under Section 439 of Cr.P.C. Applicants are accused Nos.2 to 7 in Crime No.825/2020 of Manjeswar Police Station, Kasargod for having allegedly committed offences punishable under Sections 395 and 120B of the IPC.

2. The prosecution case, in brief, is that on 10.12.2020 at about 5.30 a.m. the 1st accused and the 10th accused entered into a conspiracy to rob the de facto complainant who was moving out after purchase of used gold ornaments carrying a sum of Rs. 14.5 lakhs with him in his Maruti Swift car bearing registration No. KA 21A N 4199 along the National Highway from Mangalore to Kannur. On reaching near toll gate at Thalappady, accused Nos.1 and 10 who had hired the rest of the accused including the applicant, they robbed the de facto complainant of the money. Thereafter, they took him in another car in which the accused persons had come and robbed him of his entire money with him in his possession and thus committed the offence.

3. The de facto complainant had consultation with his brother who was at Mangalore and thereafter with others who are concerned about the Act and

lodged a complaint before the police only by 6.30 p.m.

4. The applicants state that the allegations are not true and that they are innocent. They have nothing to do with the alleged act of robbery. It is also stated that they do not have any criminal antecedents and have been in custody since 05.02.2021. No purpose will be served by further detention, therefore they seek regular bail.

5. Heard the learned counsel for the applicants and the learned Public Prosecutor.

6. The learned Public Prosecutor admits that none of these applicants have any criminal antecedents against them. However, it is stated that A1 is still at large. He is the main perpetrator of the crime. A10 was arrested and the seizure of 5.45 lakhs was made from him. The rest of the money is still to be recovered. Unless A1 is apprehended, it may not be possible to proceed with the investigation. Therefore, the application for bail is opposed by the learned Public Prosecutor.

After having heard the submissions made on both sides, I find that the applicants are persons who were hired by A1 and A10 for the purpose of robbery. They do not have any criminal antecedents. Hence, further detention of the applicants will not serve any purpose. They are willing to cooperate with the investigation. Hence, the Bail Application is allowed and the applicants are directed to be released on bail on execution of bond for Rs.50,000/-(Rupees fifty thousand only) each with two solvent sureties, each for the like amount to the satisfaction of the jurisdictional court and on following conditions:-

(i) They shall appear before the investigating officer on all Mondays between 9 a.m. and 12 noon for a period of three months or till the filing of final report whichever is earlier.

(ii) They shall surrender their passports before the jurisdictional court and shall not go abroad without the permission of the jurisdictional court, for which the jurisdictional court is also at liberty to release the passports if it is found essential.

(iii) They shall not get involved in similar cases during the currency of the bail.

(iv) They shall not tamper with evidence, intimidate or influence the witnesses .

In case of violation of the bail conditions, the prosecution is at liberty to move for cancellation of the bail before the jurisdictional court.