
(2021) 12 KL CK 0188

In the High Court Of Kerala

Case No : Bail Application Nos. 9893, 9481, 9456, 9448, 9886, 9442, 8972 Of 2021

Abdul Gafoor

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 28-12-2021

Acts Referred:

Citation : (2021) 12 KL CK 0188

Hon'ble Judges : A. Badharudeen, J

Bench : Single Bench

Advocate : P.C.Anil Kumar, Sanal P.Raj

Final Decision : Allowed

Judgement

A. Badharudeen, J

1. B.A.No.9893/2021 is an application for pre-arrest bail filed at the instance of the 1st accused in Crime No.1330/2021 of Tirur Police Station. Accused Nos.2 & 3 respectively in the said crime are the petitioners in B.A.No.9481 & 9456 of 2021.

2. B.A.No.9448/2021 is an application for pre-arrest bail filed by 1st accused in Crime No.1328/2021 of Tirur Police Station. Second accused in the above crime is the petitioner in B.A.No.9886/2021.

3. B.A.No.9442/2021 is an application for anticipatory bail filed by the sole accused in Crime No.1329/2021 of Tirur Police Station.

4. B.A.No.8972/2021 also is an application for anticipatory bail filed by the sole accused in Crime No.627/2021 of Kuttippuram Police Station.

5. Heard the learned counsel for the petitioners as well as the learned Public Prosecutor.

6. The allegation in Crime No.1330/2021 of Tirur Police Station is that, on

4.12.2021 at about 7.25 A.M., the accused persons used lorry bearing Registration Nos.KL.17.A6751, KL.10.P.732, KL.55.H.9241 for the purpose of illegally transporting sand from Bharathapuzha, against the restrictions contained in the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 [hereinafter referred to as "The Act"].

7. According to the prosecution, the accused persons involved in stealing sand and thereby they alleged to have committed offence under Sec.379 of the IPC as well as under Secs.20 & 23 of the Act.

8. In Crime No. 1328/2021 of Tirur Police Station, the allegation of the prosecution is that accused Nos.1 & 2 engaged in illegal transportation of sand in a swaraj mazda lorry bearing Registration No.KL.05.Y.1803 on 4.12.2021 at about 7.25 A.M.

9. In Crime No.627/2021 of Kuttippuram Police Station, the allegation of the prosecution is that the accused herein used lorry bearing Registration No.KL-17-C-4004 for illegal transport of sand from Bharathapuzha against the provisions contained in the Act.

10. In Crime No.1329/2021 of Tirur Police Station, the same allegations have been levelled on the specific assertion that KL-07-AJ-3991 lorry was used for illegal transport of sand. According to the prosecution, the accused herein have committed offence under Sec.379 of the IPC as well as Secs.20 & 23 of the Act.

11. It is submitted by the learned counsel for the petitioners that the recovery proceedings of alleged offending vehicles were completed, and therefore custodial interrogation of the petitioners is not necessary for the smooth investigation of these cases. It is submitted by the learned counsel for the petitioners further that, the petitioners are ready to co-operative with the investigation by subjecting themselves for interrogation.

12. The learned Public Prosecutor highlighted alarming number of cases of this nature registered while restraining attempts to transport sand from Bharathapuzha by the police. However, he also conceded that the vehicles were taken in the custody and the vehicles are subject matters of confiscation.

13. I have gone through the prosecution allegations, and the factual matrix of these cases. In fact, the vehicles were seized by the police on the allegation that the petitioners herein have used the same for illegal transport of sand. Therefore, custodial interrogation of the petitioners is not necessary for the purpose of investigation. But, the petitioners are not co-operating with the investigation for interrogation and other purposes. Having noticed the said submission, I am of the view that the petitioners can be enlarged on anticipatory bail on conditions, with specific direction to subject themselves for investigation as and when directed by the Investigating Officer concerned.

14. In the result, this petition is allowed on the following conditions:

1. The petitioners shall surrender before the Investigating Officer on or before 4.1.2022 between 9 A.M. and 11 A.M. On such surrender, the Investigating Officer can interrogate the petitioners and in the event of arrest, the petitioners shall be produced before the jurisdictional court on the day of arrest itself. On such production, the jurisdictional Magistrate shall release the petitioners on bail, on executing bonds for ₹ .50,000/- each with two solvent sureties, each for the like sum to the satisfaction of the jurisdictional Magistrate. In case the petitioners fail to surrender before the Investigating Officer, the Investigating Officer is at liberty to arrest the petitioners forthwith.
2. The petitioners shall co-operative with the COVID-19 restrictions.
3. The petitioners shall co-operative with the investigation and shall appear before the investigating officer as and when directed, till the final report is filed.
4. The petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to any police officer.
5. The petitioners are specifically directed not to involve in any crimes during the currency of bail and any such involvement or violation of the above conditions, if reported or came to the notice of this court will be a reason to cancel the bail hereby granted.