

(2023) 05 KL CK 0176

In the High Court Of Kerala

Case No : Bail Application No. 3701 Of 2023

Abdul Rahoof Pallikkal

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 24-05-2023

Acts Referred:

Citation : (2023) 05 KL CK 0176

Hon'ble Judges : A.Badharudeen, J

Bench : Single Bench

Advocate : P.Venugopal, Lakshmi T.S., T V Neema

Final Decision : Dismissed

Judgement

A. Badharudeen, J

1. This is an application for anticipatory bail filed by the petitioners, who are accused Nos.2 and 3 in Crime No.153/2023 of Kondotty Police Station, Malappuram.

2. Heard the learned counsel for the petitioners, the learned Public Prosecutor and also the learned counsel appearing for the de facto complainant, in detail.

3. I have perused the relevant documents.

4. The prosecution case is that, at about 10.00 p.m. on 5.2.2023, the accused herein wrongfully restrained and caused grievous hurt to the de facto complainant, due to animosity arose out of an occurrence, whereby, the de facto complainant informed about illegal extraction of sand, by the accused herein. The specific allegation is that, the de facto complainant was wrongfully restrained when he was driving his car, bearing Registration No.KL-10-BA-9296, thereafter, four persons jointly opened the door and beat on the head of the de facto complainant, by using an iron rod. The further allegation is that, the petitioners herein beaten the defacto complainant and thereby, he sustained nasal bone fracture. The allegation against the other accused, who are accused Nos.4 and 5

is that, they beat the de facto complainant by using their hands.

5. The learned counsel for the petitioners specifically argued that the petitioners are innocent and the allegations against them are confined in the matter of beat, by using their hands and the prosecution has no case that the petitioners used any weapons to assault the defacto complainant, in any manner. It is submitted further that this Court granted anticipatory bail to accused Nos. 4 and 5 vide B.A.No.2146 of 2023, on the ground that accused Nos. 4 and 5 did not use any weapon. Therefore, the petitioners also deserve bail, since they also did not use any weapon.

6. The learned counsel for the de facto complainant submitted that, the petitioners also have role in this occurrence and all of them jointly attacked the de facto complainant with intention to cause grievous hurt. The learned counsel appearing for the de facto complainant also submitted that, the petitioners are having criminal antecedents. Therefore, the learned counsel for the de facto complainant seriously opposed grant of bail.

7. Though the learned Public Prosecutor did not oppose grant of anticipatory bail to accused Nos. 4 and 5, it is submitted that accused Nos. 2 and 3 caused fracture to the de facto complainant while attempting to commit culpable homicide not amounting to murder. Therefore, their arrest and custodial interrogation are necessary to effectuate meaningful investigation.

8. It is pertinent to note that, in this matter accused Nos. 2 and 3 are the persons who beat on the chest and nose of the de facto complainant which caused fracture. The prosecution has specific case that the petitioners herein attempted to commit culpable homicide not amounting to murder and in this attempt they manhandled the de facto complainant, which resulted in nasal bone fracture. Therefore, in such a case, the learned Public Prosecutor is right in arguing that arrest and custodial interrogation of the petitioners are necessary to accomplish meaningful investigation and eventful prosecution. Therefore, anticipatory bail plea at the instance of the petitioners is found to be not sustainable.

Accordingly, this application is dismissed.