

(2023) 06 KL CK 0144

In the High Court Of Kerala

Case No : Bail Application No. 4414 Of 2023

Abdul Sakeer Ali

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 12-06-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 143, 147, 148, 149, 294(b), 323, 343, 427, 506
Kerala Prevention of Damage to Private Property and Payment of Compensation Act, 2019 — Section 3, 5, 6, 8

Citation : (2023) 06 KL CK 0144

Hon'ble Judges : Bechu Kurian Thomas, J

Bench : Single Bench

Advocate : P.M.Ziraj, Irfan Ziraj, P.G.Manu

Final Decision : Allowed

Judgement

Bechu Kurian Thomas, J

1. This is an application for regular bail filed under section 439 of the Code of Criminal Procedure 1973.

2. Petitioners are accused Nos.1 to 3 in Crime No.406/2023 before the Ottapalam Police Station, Palakkad district. The offences alleged against the petitioners are under sections 143, 147, 148, 343, 323, 294(b), 506 and 427 r/w Section 149 of the Indian Penal Code, 1860 apart from Sections 3 and 5 of the Kerala Prevention of Damage to Private Property and Payment of Compensation Act, 2019.

3. According to the prosecution, the Tipper Lorry Association had called for a strike and the defacto complainant, who was the driver of a lorry belonging to a Redimix Company, drove the vehicle on that day, contrary to the call for strike. The accused persons, pursuant to their common object and to prevent the running of the lorry driven by the defacto complainant, formed themselves into

an unlawful assembly and after restraining the lorry bearing registration No.KL-41-J-9971, abused him and with intent to kill the driver, forcefully removed the cement mixtures from the lorry, causing a loss of Rs.1,00,000/- (Rupees one lakh only) to the defacto complainant and thereby committed the offences alleged.

4. I have heard Sri.P.M.Ziraj, the learned counsel for the petitioners and Sri.P.G.Manu, the learned Public Prosecutor.

5. As per Section 8 of the Kerala Prevention of Damage to Private Property and Payment of Compensation Act, 2019, no person accused under Section 5 or Section 6 shall be released on bail on execution of bond by two sureties and depositing in the Court the amount not less than one half the value of the property destroyed or damaged as may be determined by Court on the basis of police report or on furnishing bank guarantee for the said amount and the prosecution has been given an opportunity to oppose the application.

6. The learned Public Prosecutor opposed the application for bail, contending that without deposit of the amount contemplated under Section 8 of the Act, the petitioners ought not to be released on bail.

7. As per the First Information Report and the Police Report, the cement stored in the Redimix lorry is alleged to have been completely destroyed and the loss is quantified at Rs.1,00,000/- (Rupees one lakh only). Taking note of the period of detention of the petitioners from 26.05.2023, I am of the view that the petitioners can be released on bail, however, in view of Section 8 of the Act, under specific conditions:

8. In the result, this application is allowed on the following conditions:-

(a) Petitioners shall be released on bail on them executing a bond for Rs.50,000/- (Rupees fifty thousand only) each, with two solvent sureties each for the like sum to the satisfaction of the court having jurisdiction.

(b) Petitioners shall deposit Rs.50,000/- (Rupees fifty thousand only) in the Government Treasury and produce the receipt before the Jurisdictional Court.

(c) Petitioners shall appear before the Investigating Officer as and when required.

(c) Petitioners shall not intimidate or attempt to influence the witnesses; nor shall they tamper with the evidence.

(d) Petitioners shall not commit any similar offences while they are on bail.

(e) Petitioners shall not leave India without the permission of the Court having jurisdiction.

In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with the law, notwithstanding the bail having been granted by this Court.