
(2021) 10 KL CK 0188
In the High Court Of Kerala
Case No : Bail Appl. No. 7132 Of 2021

Akhiljithu @ Appu

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 29-10-2021

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 395

Citation : (2021) 10 KL CK 0188

Hon'ble Judges : Shircy V, J

Bench : Single Bench

Advocate : Latheesh Sebastian, Sreeja V.

Final Decision : Dismissed

Judgement

Shircy V, J

1. Application for regular bail filed under Section 439 of the Code of Criminal Procedure.
2. The petitioner is the 6th accused in Crime No.2116 of 2021 of Aryanad Police Station registered for the offence punishable under Section 395 of the Indian Penal Code.
3. He has been in custody since 13.8.2021.
4. The prosecution case in brief is as follows:

The defacto complainant had entered into an agreement for sale of his property with the employer of the 1st accused. On 12.08.2021 the defacto complainant was invited to the residence of the 2nd accused and at 13.15 hrs, he reached there along with the agent who intervened in the property transaction with a sum of Rs.20 lakhs. Then the accused persons have intimidated and threatened him with the intention to rob the money. When he resisted the same, a sword was placed on his neck by the 2nd accused to put him under threat and thus

criminally intimidated him and robbed the amount of Rs.20 lakhs along with the documents in his possession with the aid of the other accused. Thus the accused looted the money and thereby the case has been registered against all of them.

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

6. According to the learned counsel for the petitioner he has not committed any offence as alleged by the prosecution. But he is undergoing incarceration since the date of his arrest.

7. The learned Public Prosecutor has refuted the submission made by the learned counsel for the petitioner and contended that in fact he had active participation in committing the offence. But it is admitted that the vehicle involved in this case, the weapon alleged to have been used by the accused etc. had already been recovered after arrest of the other accused. But the documents snatched away from the defacto complainant by putting him under threat and coercion are yet to be recovered and all those documents are in the possession of the first accused who is absconding.

8. The records would indicate that this petitioner has no criminal antecedents. The investigation of the case is well in progress. The prosecution has no case that this petitioner had taken away the documents from the possession of the defacto complainant by putting him under threat. Though there is strong prima case against this petitioner, the role played by him is less when compared with others. Therefore, considering the period of detention undergone by him and the present stage of investigation, I am inclined to release him on bail subject to the following conditions.

(i) The petitioner shall be released on bail on his executing bond for a sum of Rs.1,00,000 /- (Rupees one lakh only) with two solvent sureties for the like sum each to the satisfaction of the court having jurisdiction.

(ii) The petitioner shall appear before the Investigating Officer for interrogation as and when required by him, in writing, till filing of the final report.

(iii) The petitioner 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 or tamper with the evidence.

(iv) The petitioner shall not commit any offence while on bail.

In case of violation of any of the above conditions, the learned Magistrate is empowered to cancel the bail in accordance with the law.