
(2023) 04 KL CK 0144
In the High Court Of Kerala
Case No : Criminal Appeal No. 539 Of 2023

Ali @ Sayed Ali

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 18-04-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 294 (b), 323, 324, 342, 365, 506(i)
Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 — Section 3(1)(r), 3(2)(va)

Citation : (2023) 04 KL CK 0144

Hon'ble Judges : Dr. Kauser Edappagath, J

Bench : Single Bench

Advocate : Latheesh Sebastian

Final Decision : Partly Allowed

Judgement

Dr. Kauser Edappagath, J

1. This Crl.Appeal is filed against the order passed by the Special Court for the trial of cases under SC/ST (Prevention of Atrocities) Act, Thiruvananthapuram (for brevity "the court below") in Crl.M.P. No. 854/2023 dated 24.03.2023 rejecting the bail application filed by the petitioners.

2. The petitioners are the accused Nos. 1 to 3 in Crime No. 427/2023 of Varkala Police Station. The 4th respondent is the victim. The offences alleged against the petitioners are punishable under Sections 294 (b), 365, 323, 324, 342 and 506(i) r/w 34 of the IPC and Section 3(1)(r) and 3(2)(va) of the SC/ST (Prevention of Atrocities) Act.

3. The prosecution case in short is that on 28.02.2023 at about 11 a.m., accused nos. 2 and 3 took the victim in a motor cycle to a resort by name 'Vacay Nest' in Perumkulam and accused No. 1, by uttering ugly words made the victim bent down, beat on his back, stamped on his chest, pushed him down and beat him using his hands. Accused Nos. 2 and 3 also beat him and took him to another

room and confined him there for some time. Later, accused No. 1 came there and beat him on his back by using a liquor bottle, forcefully took him in a car and dropped in his house.

4. The petitioners have filed bail application before the court below as Crl. M.P. No. 854/2023. The court below after considering the entire facts, dismissed the bail application.

5. I have heard Sri. Latheesh Sebastian, the learned counsel appearing for the petitioner and Smt. Sreeja, the learned Senior Public Prosecutor.

6. Even though notice was served to the 4th respondent, there is no appearance.

7. The petitioners were arrested on 07.03.2023. The major part of the investigation is over. I went through the FIS and case records. The main allegation is against the accused No. 1. As stated already, the major overtact is attributed against accused No. 1. That apart, he has strong criminal antecedents. Hence, I am of the view that accused No.1 cannot be released on bail at this stage. However, considering the overtact attributed against accused Nos. 2 and 3 and antecedents and also the stage of investigation, I am of the view that accused Nos. 2 and 3 can be released on bail on following conditions;

(i) The accused Nos. 2 and 3 shall be released on bail on executing a bond for Rs. 1,00,000/- (Rupees One Lakh Only) each with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Magistrate/Court.

(ii) The accused Nos. 2 and 3 shall fully co-operate with the investigation.

(iii) The accused Nos. 2 and 3 shall appear before the investigating officer between 10.00 a.m and 11.00 a.m every Saturday until further orders. They shall also appear before the investigating officer as and when required.

(iv) The accused Nos. 2 and 3 shall not commit any offence of a like nature while on bail.

(v) The accused Nos. 2 and 3 shall not attempt to contact any of the prosecution witnesses, directly or through any other person, or in any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

(vi) The accused Nos. 2 and 3 shall not leave the State of Kerala without the permission of the trial court.

(vii) The application, if any, for deletion/modification of the bail conditions or cancellation of bail on the grounds of violating the bail conditions shall be filed at the jurisdictional court.

Crl. Appeal is allowed in part as above.