
(2018) 03 KL CK 0103
In the High Court Of Kerala
Case No : Bail Application No. 1377 Of 2018

Arun Raj

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 02-03-2018

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 34, 147, 294(b), 341, 323, 324, 332, 341, 353, 442

Citation : (2018) 03 KL CK 0103

Hon'ble Judges : Raja Vijayaraghavan V, J

Bench : Single Bench

Advocate : Jayasree Manoj, Amjad Ali

Judgement

1. This petition is filed under Section 438 of the Code of Criminal Procedure.
2. The petitioners herein are the accused Nos. 1, 3 and 4 in Crime No.44 of 2018 of Forest Range, Wayanad, registered alleging offence punishable under Sections 147, 341, 323, 324, 353, 332, 294(b) r/w Sec. 34 of the IPC.
3. The allegation is that the petitioners herein along with one Anurag trespassed into the Kappikkalam Meenmutty region in a inebriated stage and smoked cigarettes. When they were asked to remove themselves from the reserve forest area, they are alleged to have abused the Forest Officers and assaulted them. One of the accused is alleged to have assaulted the Forest Section Officer with a stone and punched him on his chest.
4. The learned counsel appearing for the petitioners fervently submitted that the allegations are untrue. According to the learned counsel, the petitioners are local residents, who had gone to the Meenmutty river for taking a bath. There occurred an altercation with the Forest Officials, who were in an inebriated stage.
5. The learned Public Prosecutor has opposed the prayer. It is submitted that it was the 1st petitioner, who had assaulted the Forest Officer with a stone. He is

also a habitual offender and he has been arrayed as accused in Crime No.279/2017 of the Padinjarethara Police Station registered under Sections 442, 341, 353 and 332. No serious objection is raised with regard to petitioners 2 and 3.

6. I have considered the submissions advanced and have gone through the case diary. It appears that specific allegations have been levelled against the 1st petitioner and he is also the accused in a similar crime which was registered earlier.

7. In that view of the matter, I am of the view that the 1st petitioner is not entitled to an order of pre-arrest bail. This petition insofar as the 1st petitioner is concerned will stand dismissed. Insofar as the petitioners 2 and 3 are concerned, I am of the view that custodial interrogation is not necessitous for an effective investigation.

8. In the result, this petition will stand partly allowed. The petitioners 2 and 3 shall appear before the investigating officer within ten days from today and shall undergo interrogation. Thereafter, if they are proposed to be arrested, they shall be released on bail on their executing a bond for a sum of Rs.40,000/- (Rupees forty thousand only) each with two solvent sureties each for the like sum. The above order shall be subject to the following conditions:

i)The petitioners 2 and 3 shall co-operate with the investigation and shall appear before the Investigating Officer on all Saturdays between 9 a.m. and 11 a.m., for one month or till final report is filed, whichever is earlier.

ii)They 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/ her from disclosing such facts to the court or to any police officer.

iii)They shall not commit any similar offence while on bail.

iv).If they intend to leave India, they shall obtain previous permission from 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.