
(2021) 04 KL CK 0229

In the High Court Of Kerala

Case No : Bail Application No. 2785 Of 2021

Bindhumol Joseph And Ors

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 30-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 120(b), 380, 420, 471, 496

Citation : (2021) 04 KL CK 0229

Hon'ble Judges : Kauser Edappagath, J

Bench : Single Bench

Advocate : R. Kishore, Syed Muhammed Salih A.N, Sreeja V, M.S. Imthiyaz
Ahammed, P. Anoop

Final Decision : Allowed

Judgement

1. This is an application filed u/s 438 of Code of Criminal Procedure seeking pre-arrest bail.
2. The petitioners are the accused Nos. 1 and 4 in Crime No.133/2021 of Kodumon Police Station. The offences alleged are under Sections 120(b), 420 and 496, 380 and 471 of IPC.
3. The prosecution case in short is that the first accused in collusion with the remaining accused made believe the defacto complainant that her marriage with her former husband has been dissolved and believing the said words, the defacto complainant married the first accused on 29/6/2020 and after the marriage, the accused persons misappropriated a sum of ` 3,14,000/- and also committed theft of 15 sovereigns of gold ornaments belonging to the first wife of the defacto complainant and thereby committed the offence.
4. The defacto complainant entered appearance through counsel. I have heard the learned counsel for the petitioners, the learned counsel for the defacto complainant and the Public Prosecutor.

5. The learned counsel for the petitioners submitted that the petitioners are absolutely innocent and they have been falsely implicated in the present case. He further submitted that there are no materials to connect the petitioners with the alleged crime and hence they are entitled to get bail. The learned Public Prosecutor opposed the bail application. He contended that the alleged incident occurred as a part of the intentional criminal acts of the petitioners and if the petitioners are released on bail at this stage, it would affect the course of investigation.

6. The crime was registered pursuant to a private complaint filed by the defacto complainant before the Judicial First Class Magistrate Court, Adoor. The learned Magistrate forwarded the complaint to the police for investigation u/s 156(3) of Cr.P.C. and it was thereafter the crime was registered. The allegations in the private complaint are too vague. The petitioners have no criminal antecedents. Considering the allegations levelled against the petitioners, the custodial interrogation of the petitioners does not appear to be necessary.

For all these reasons, the petitioners are entitled to pre-arrest bail on conditions.

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

(i) The petitioners shall be released on bail in the event of their arrest on executing a bond for `1,00,000/- (Rupees One lakh only) each with two solvent sureties for the like sum each to the satisfaction of the arresting officer/ investigating officer, as the case may be.

(ii) The petitioners shall fully co-operate with the investigation, including subjecting themselves to the deemed police custody for the purpose of discovery, if any, as and when demanded.

(iii) The petitioners shall appear before the investigating officer between 10.00 a.m and 11.00 a.m on every Saturday until further orders. The petitioners shall also appear before the investigating officer as and when required by him.

(iv) The petitioners shall not commit any offence of like nature while on bail.

(v) The petitioners shall not make any attempt to contact any of the prosecution witnesses, directly or through any other person, or any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

(vi) The petitioners shall not leave State of Kerala without the permission of the trial Court.