

(2021) 04 KL CK 0193
In the High Court Of Kerala
Case No : Bail Application No. 2810 Of 2021

C.P. Jose And Ors

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 27-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Forest Act, 1927 — Section 27(1)(e), 27(3), 27(4), 52(1)

Citation : (2021) 04 KL CK 0193

Hon'ble Judges : Kauser Edappagath, J

Bench : Single Bench

Advocate : Sunil Jacob Jose, Sachin Jacob Ambat

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 in Crime No.04/2021 of Mannamangalam Forest Range. The offences alleged are under Sections 27(1)(e), (3), (4) and 52(1) of the Forest Act.
3. The prosecution case in short is that the accused Nos.1 to 4 trespassed in to the Mannamangalam Forest Range and cut the White Agil and transported the same and handed over to the 4th accused and thereby committed the offence.
4. Heard both sides and perused the case diary.
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. Perusal of the case diary would show that the petitioners 1, 3 and 4 have not been arrayed as an accused in the above crime. The 2nd petitioner namely I P Antony is arrayed as the 4th accused. Even according to the prosecution case, the tree was cut and removed by the 1st and 2nd accused. Only allegation against the 2nd petitioner is that the cut and removed tree was handed over to him. Admittedly, the recovery has been partially effected already. Considering the allegations levelled against the petitioner No.2, the custodial interrogation does not appear to be necessary. In these circumstances, I am of the view that the petitioner No.2 can be granted anticipatory bail. Since the petitioner Nos.1, 3 and 4 have not been arrayed as an accused in the above crime, no order need be passed in the time being. However, if the investigation agency, on further investigation decides to proceed against them, notice under Section 41 A of Cr.P.C shall be issued to them.

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

(i) The petitioner No.2 shall be released on bail in the event of his arrest on executing a bond for `1,00,000/- (Rupees One lakh only) 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 petitioner No.2 shall fully co-operate with the investigation, including subjecting himself to the deemed police custody for the purpose of discovery, if any, as and when demanded.

(iii) The petitioner No.2 shall appear before the investigating officer between 10.00 a.m and 11.00 a.m on every Saturday until further orders. The petitioner No.2 shall also appear before the investigating officer as and when required by him.

(iv) The petitioner No.2 shall not commit any offence of like nature while on bail.

(v) The petitioner No.2 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 petitioner No.2 shall not leave State of Kerala without the permission of the trial Court.