
(2020) 11 KL CK 0077
In the High Court Of Kerala
Case No : Bail Application No. 7615 Of 2020

Darsan Lal. S	Vs	APPELLANT
State Of Kerala		RESPONDENT

Date of Decision : 23-11-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437, 438
Indian Penal Code, 1860 — Section 294(b), 324, 427, 447, 506
Kerala Health Service Persons And Health Care Service Institutions (Prevention Of Violence And Damage To Property) Act, 2012 — Section 3, 4

Citation : (2020) 11 KL CK 0077

Hon'ble Judges : P.V. Kunhikrishnan, J

Bench : Single Bench

Advocate : Pratheesh. P, S. Seetha, Anjana Kannath, Renjith. T.R.

Final Decision : Disposed Of

Judgement

1. This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.
2. The petitioner is the accused in Crime No.1657 of 2020 of Keezhvaipur Police Station. The above case is registered against the petitioner alleging offences punishable under Sections 324, 294 (b), 447, 427 and 506 IPC & Sections 3 & 4 of the Kerala Health Service Persons and Health care Service Institutions (Prevention of Violence and Damage to Property) Act 2012.
3. The prosecution case is that on 9.11.2020 at about 7.15 p.m., the accused person who was the ex-husband of the de facto complainant had trespassed into the Athira Medicare Family Clinic by abusing the de facto complainant. It is also alleged that the accused person had hit the de facto complainant with a torch on her head and shoulder and thereafter the defacto complainant was dragged down from the chair and also threatened to

kill her.

4. Heard the counsel for the petitioner and the learned Public Prosecutor.

5. The counsel for the petitioner submitted that the only non-bailable offence alleged against the petitioner is under Sections 3 & 4 of the Kerala

Health Service Persons and Health care Service Institutions (Prevention of Violence and Damage to Property) Act, 2012. The counsel submitted that

the maximum punishment that can be imposed for the above offence is only three years. The counsel submitted that the petitioner is entitled the

benefit of the Full Bench decision of this Court in W.P.(C) N.9400/2020. The counsel also submitted that the incident is not happened as alleged by

the prosecution.

6. The Public Prosecutor seriously opposed the bail application. The Public Prosecutor submitted that the custodial interrogation of the petitioner is

necessary in this case.

7. After hearing both sides, I think this is not a fit case, in which orders under Section 438 of the Cr.P.C can be issued. The allegations against the

petitioner are very serious. Counsel for the petitioner submitted that the petitioner is ready to surrender before the investigating officer and co-operate

with the investigation. Consideration of bail application under Section 438 and consideration of bail application under Section 437 Cr.P.C are different.

Considering the entire facts and circumstances, I think this bail application can be disposed of with the following directions:

(i) The petitioner shall appear before the investigating officer within 10 days from today. The investigating officer can interrogate the petitioner.

Thereafter, if the petitioner is arrested, the petitioner will be produced before the jurisdictional court forthwith.

(ii) When the petitioner is produced before the jurisdictional court,, if a bail application is filed by the petitioner after giving prior notice to the

Prosecutor concerned, the learned judge will consider the same on the date of filing the bail application itself.