
(2011) 10 KL CK 0018
In the High Court Of Kerala
Case No : B.A. No. 7963 of 2011

Hemanth Kumar and Others

APPELLANT

Vs

SI of Police and Another

RESPONDENT

Date of Decision : 10-10-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 143, 147, 149, 452
Prevention of Damage to Public Property Act, 1984 — Section 3(1)

Citation : (2012) CriLJ 1297 : (2012) 3 Crimes 515 : (2011) 4 KLJ 296 : (2011) 4 KLT 288

Hon'ble Judges : K.T. Sankaran, J

Bench : Single Bench

Advocate : P.V. Kunhikrishnan, for the Appellant; V. Tekchand (PP), for the Respondent

Final Decision : Allowed

Judgement

K.T. Sankaran, J.—This is an application for bail u/s 439 of the Code of Criminal Procedure. The petitioners are accused Nos. 1 to 3, 5 and 4 in Crime No. 478 of 2011 of Kunnamangalam Police Station, Kozhikode District. The offences alleged against the petitioners are under Sections 143, 147 and 452 read with 149 of the Indian Penal Code and Section 3(1) of the Prevention of Damage to Public Property Act.

2. The prosecution case is the following:

On 12.8.2011, the accused forcibly entered into the Government Vocational Higher Secondary School, Chathamangalam in connection with a political strike by one of the students' unions and the accused destroyed the furniture, computer, etc. belonging to the school, thereby causing a loss of Rs. 23,000/- to the State. The petitioners are not students of the Government Vocational Higher Secondary School, Chathamangalam, but they are outsiders. It is submitted by the learned counsel for the petitioners that though they are outsiders, they are

also students in some other educational institutions.

3. Accused Nos. 1 to 4 were arrested on 12.9.2011 and accused No. 5 was arrested on 14.9.2011. They are in judicial custody since then.

4. The learned Public Prosecutor submitted that after completing the investigation, charge sheet was filed in the case on 16.9.2011.

5. The allegation is that the petitioners destroyed the valuable articles available in the school, which are intended for the use of the students. It is stated that the petitioners are also students. If so, they must understand the value and utility of the articles and materials available in the school. The petitioners had no business to enter into the compound of the school where the offence was committed. Therefore, their alleged entry was illegal. Destruction of public property is to be viewed very seriously. Very often, under the guise of strikes, hartals and other political adventures, public properties are being destroyed unmindful of the consequences. Public property means the property belonging to the public. Every citizen has a right in the public property. It cannot be destroyed by anybody under the guise of strike or protest, whatever may be the reason for the strike or protest. Even if the strike or protest is for a genuine cause, nobody can say that destruction of public property would be part of that genuine cause. There can be no justification for destruction of public property, whatever may be the cause sought to be espoused for the same.

6. It is true that the petitioners are in judicial custody since 12.9.2011 and 14.9.2011. But that by itself is not a ground to release them on bail unconditionally.

7. I am of the view that in cases where public property is destroyed, the value of the same or even more should be directed to be deposited by the accused as a condition for granting bail to them. Otherwise, the loss sustained to the State would not be realised at all. Courts cannot be mute spectators to the wanton destruction of public property. Nobody should be allowed to destroy public property and claim success of the strikes on the basis of the quantum of loss sustained to the State. It is easy to destroy; but it is not so easy to make.

8. If the accused are found not guilty and they are accordingly acquitted, they would be entitled to get refund of the amount deposited by them. If the court comes to the conclusion that the accused are liable to pay any fine, the amount in deposit can be utilized for payment of fine.

9. Taking into account the facts and circumstances of the case, the duration of the judicial custody undergone by the petitioners, the nature of the offence and the present stage of investigation, I am of the view that bail can be granted to the petitioners on stringent conditions. The petitioners shall be released on bail on their executing bond for Rs. 25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties for the like amount to the satisfaction of the Judicial Magistrate of the First Class, Kunnamangalam, subject to the following

conditions:

A) The petitioners shall together deposit a sum of Rs. 50,000/- (Rupees Fifty Thousand only) before the Court of the Judicial Magistrate of the First Class, Kunnamangalam. The petitioners shall be released on bail only on such deposit. If the petitioners were to be acquitted finding that they are not guilty, they would be entitled to get refund of the amount. Otherwise, the amount would be at the disposal of the court trying the case.

B) The petitioners shall report before the investigating officer between 9 A.M. and 11 A.M. on alternate Sundays, till the final report is filed or until further orders.

C) The petitioners shall appear before the investigating officer for interrogation as and when required;

D) The petitioners shall not try to influence the prosecution witnesses or tamper with the evidence.

E) The petitioners shall not commit any offence or indulge in any prejudicial activity while on bail.

F) The petitioners shall cooperate with the investigating officer in the matter of investigation.

G) In case of breach of any of the conditions mentioned above, the bail shall be liable to be cancelled.

The Bail Application is allowed as above.