

(2021) 06 KL CK 0013
In the High Court Of Kerala
Case No : Bail Appl. No. 3769 Of 202

Laly James

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 01-06-2021

Acts Referred:

Code of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 294(b), 341, 353, 506
Kerala Epidemic Diseases Ordinance, 2020 — Section 4(2)(e), 4(2)(f), 5
Kerala Health Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage of Property) Act, 2012 — Section 3, 4

Citation : (2021) 06 KL CK 0013

Hon'ble Judges : Raja Vijayaraghavan V, J

Bench : Single Bench

Advocate : K.B.Gangesh, Ajith Murali

Final Decision : Allowed

Judgement

Raja Vijayaraghavan V, J

1. The above captioned application seeking anticipatory bail is filed under Section 438 of the Code of Criminal Procedure ("Code" for short) by

the sole accused in Crime No.234 of 2021 of the Thrissur Town West Police Station registered under Sections 341, 294(b), 353 and 506 of the IPC,

Sections 4(2)(e), 4(2)(f) and 5 of the Kerala Epidemic Diseases Ordinance 2020 and Sections 3 and 4 of the Kerala Health Service Persons and

Healthcare Service Institutions (Prevention of Violence and Damage of Property) Act, 2012.

2. It is the case of the petitioner that she is an elected Councillor of the Division no.45 of the Thrissur Corporation. The de facto complainant is a

Doctor in the Psychiatry Department of the Thrissur Government Medical Health

Centre. The prosecution allegation is that on 20.03.2021, at about 10.45 am the petitioner trespassed inside the duty room of the de facto complainant without following COVID protocol and abused the Doctor. It is alleged that the petitioner by her acts deterred the de facto complainant from discharging her official duty.

3. The learned counsel appearing for the applicant submitted that the applicant was requested by the sister of a mentally challenged person to accompany her to the hospital to enquire about his whereabouts. When the petitioner tried to enquire about the man, the informant got perturbed and flew into a rage. It is contended that no incident of the nature alleged had taken place. It is further contended by the learned counsel that the petitioner is an elected Councilor with no criminal antecedents

4. The learned Public Prosecutor has seriously opposed the prayer. It is submitted that the petitioner had entered the room and by her questionable acts the functioning of the hospital was adversely affected

5. The de facto complainant has entered appearance through Adv.P.Sreekumar. The learned counsel supported the submission of the learned Public Prosecutor. It is submitted that though the petitioner had denigrated the doctor by calling his caste name, the provisions of the SCST Act were not incorporated by the police. It is submitted that the de facto complainant has approached the jurisdictional Magistrate and has filed a complaint to redress her grievance.

5. I have considered the submissions advanced and have gone through the case diary. From the records it appears that the specific allegation against the petitioner is that she had trespassed into the duty room of the Doctor and picked up an altercation with the Doctor. There is no case for the prosecution that the petitioner is a person with criminal antecedents or that she has committed any mischief or used force. In the facts and circumstances, I do not think that the custodial interrogation of the lady is required for an effective investigation in the instant case.

In the result, this application will stand allowed.Â The applicant shall appear before the Investigating Officer within ten days from today and shall undergo interrogation.Â Thereafter, if she is proposed to be arrested, she shall be released on bail on her executing a bond for a sum of Rs.50,000/-

(Rupees Fifty thousand only) with two solvent sureties each for the like sum. The

above order shall be subject to the following conditions:

i) The applicant shall cooperate with the investigation and shall appear before the Investigating Officer on all Saturdays between 9 a.m. and 11 a.m., for two months or

till final report is filed, whichever is earlier.

ii) She 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) She shall not commit any similar offence while on bail.

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.