

(2021) 04 KL CK 0160
In the High Court Of Kerala
Case No : Bail Application No. 2436 Of 2021

Mathew V A

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 23-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 353

Citation : (2021) 04 KL CK 0160

Hon'ble Judges : K. Babu, J

Bench : Single Bench

Advocate : Joseph T. John, M.R Dhanil

Final Decision : Allowed

Judgement

1. This application is filed under Section 438 of the Code of Criminal Procedure.
2. The petitioner is the sole accused in Crime No.511 of 2021 of the Pala Police Station. The offence alleged against the petitioner is punishable under Section 353 of the Indian Penal Code.
3. The case of the prosecution is that the petitioner obstructed the de facto complainant who is the Assistant Executive Engineer of KSEB while drawing electric line over the property of one Tom Prakash Puthanpurakal Vadakken as per the directions of the Additional District Magistrate, Kottayam. It is alleged that the petitioner prevented the de facto complainant from discharging his official duty.
4. The case of the petitioner is that he is totally innocent of the allegations levelled against him and that the de facto complainant and the employees of the KSEB trespassed upon the property belonging to the brother-in-law of the petitioner who is residing in USA. The brother-in-law of the petitioner had filed a case before the District Court, Kottayam seeking a sum of Rs.91,41,000/- as compensation from the KSEB authorities. The order which is stated to have been

issued by the ADM, Kottayam has not been communicated to the petitioner by the de facto complainant. The petitioner only demanded compensation from the KSEB authorities before drawing line as per the instructions of his brother-in-law.

5. The learned Public Prosecutor submits that the custodial interrogation of the petitioner is not required in this case.

6. The learned counsel for the petitioner submitted that he is prepared to co-operate with the investigation.

7. Having gone through the materials, this Court is of the view that the custodial interrogation of the petitioner is in anyway not required.

8. The materials available lead me to conclude that there is some doubt as to the mens rea of the petitioner in the commission of the alleged acts. There is no possibility of the petitioner to flee from justice. Considering the entire circumstances, I am of the view that the petitioner could establish a prima facie case for getting the benefits contemplated under Section 438 of the Code of Criminal Procedure.

(i) The petitioner shall appear before the Investigating Officer on or before 3.5.2021 for interrogation.

(ii) The investigating officer is directed to release the petitioner, on bail, in the event, he is arrested, on his executing bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum.

(iii) The petitioner shall appear before the Investigating Officer as and when required.

(iv) The petitioner shall not interfere with the process of investigation. The petitioner shall not influence or intimidate the witnesses in this case.