

(2021) 04 KL CK 0260
In the High Court Of Kerala
Case No : Bail Application No. 3265 Of 2021

Noufal M And Ors

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 30-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 143, 147, 149, 323, 341, 353

Citation : (2021) 04 KL CK 0260

Hon'ble Judges : Kauser Edappagath, J

Bench : Single Bench

Advocate : Rosin Joseph, Sreeja V

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. 164 of 2021 of Koothuparamba Police Station. The offences alleged are under Sections 143, 147, 341, 323 and 353 read with Section 149 of the Indian Penal Code.
 3. The prosecution case in short is that on 06.04.2021 on the election day at about 8.52 p.m., while the de facto complainant, who is a public servant, was engaged in the webcasting duty in the South Kuthuparamba U.P. School in connection with the election, the petitioners formed themselves into an unlawful assembly and in furtherance of their common object, wrongfully restrained the de facto complainant and other officers and assaulted them and deterred them from discharging their official duty and thereby committed the offence.
 4. Heard both sides and perused the case diary.
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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. The alleged offence was taken place inside the polling booth on the election day. The names of the petitioners are not mentioned in the FIR. There

is no specific allegation against them in the FIS. The FIR was actually registered against six unknown persons. The petitioners have no criminal

antecedents. Considering the allegations levelled against the petitioners, their custodial interrogation does not appear to be necessary. For all these

reasons, the petitioners are entitled to pre-arrest bail on conditions.

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

(i) The petitioners shall be released on bail in the event of their arrest on executing a bond for ` 1,00,000/- (Rupees One lakh only) each 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 petitioners shall fully co-operate with the investigation, including subjecting themselves to the deemed police custody for the purpose of

discovery, if any, as and when demanded.

(iii) The petitioners shall appear before the investigating officer between 10.00 a.m and 11.00 a.m on every Saturday until further orders. The

petitioners shall also appear before the investigating officer as and when required by him.

(iv) The petitioners shall not commit any offence of like nature while on bail.

(v) The petitioners 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 petitioners shall not leave State of Kerala without the permission of the trial Court.