

(2023) 03 KL CK 0156
In the High Court Of Kerala
Case No : Bail Application No. 1381 Of 2023

Rahim Kabir Shaikh

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 16-03-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 380, 454

Citation : (2023) 03 KL CK 0156

Hon'ble Judges : Dr. Kauser Edappagath, J

Bench : Single Bench

Advocate : Prabhu K.N., Manumon A., Jayan Kuttichakku, S.Rekha.

Final Decision : Dismissed

Judgement

Dr. Kauser Edappagath, J

1. This application is filed u/s 439 of the Code of Criminal Procedure seeking regular bail.
2. The applicants are the accused Nos.1, 3 and 4 in Crime No.39/2023 of Pudukad Police Station. The offences alleged are punishable under Sections 454, 380 r/w 34 of IPC.
3. The prosecution case, in short, is that during some time between 14.30 hours on 07.01.2023 and 10.00 hours on 09.01.2023, the applicants along with the remaining accused, criminally trespassed into EMKE Foot Care Product a closed firm, situated at Parppukkara, after breaking the shutter locks and committed theft of machines and motors worth Rs.8,66,200/-.
4. I have heard Sri.Prabhu K.N., the learned counsel for the applicants and Smt.S.Rekha, the learned Senior Public Prosecutor. Perused the case diary.
5. The learned counsel for the applicants submitted that the applicants are innocent and have been falsely implicated in the present case. The counsel

further submitted that no materials are on record to connect the applicants with the alleged crime; hence, they are entitled to get bail. The learned counsel for the applicants relied on the decision of the Apex Court in Santosh S/o.Dwarkadas Fafat v. State of Maharashtra (2017 KHC 6728). On the other hand, the learned Public Prosecutor submitted that the alleged incident occurred as a part of the intentional criminal acts of the applicants, and they are not entitled to bail at this stage.

6. The applicants were remanded to judicial custody on 21.01.2023. A perusal of the case diary would reveal that the accusation against the applicants is very serious, and it prima facie shows a premeditated criminal act on their part. The recovery has not been fully effected. The investigating officer filed a statement before this Court stating that the applicants are not co-operating with the investigation.

Considering the nature of the crime, how the petitioners are alleged to have complicity in it, and the facts and circumstances mentioned above, I am of the view that the applicants cannot be released on bail at this stage. The bail application, accordingly, is dismissed.