

(2021) 04 KL CK 0161
In the High Court Of Kerala
Case No : Bail Application No. 2490 Of 2021

Saju T S And Ors

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 34, 294(b), 353

Citation : (2021) 04 KL CK 0161

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 petitioners are accused Nos.1 and 2 in Crime No.551 of 2021 of the Pala Police Station. The offences alleged against the petitioners are punishable under Sections 353, 294(b) and 34 of the Indian Penal Code.
3. The case of the prosecution is that the petitioners abused the de facto complainant who is the Executive Engineer of the KSEB and prevented him from discharging his official duty.
4. The case of the petitioners is as follows:-

Petitioner No.2 is the son of petitioner No.1. On 12.3.2021 certain workers engaged by the KSEB on contract basis came to the landed property of the petitioners and committed mischief therein. Petitioners obstructed them. The petitioners had instituted a petition before the District Court seeking compensation against the KSEB in connection with drawing of electric line over the property of the petitioners. The de facto complainant is living in enmity terms with the petitioners as they insisted for releasing the compensation before

drawing line through their property.

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 petitioners submitted that they are 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 petitioners, 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 petitioners in the commission of the alleged acts. There is no possibility of the petitioners to flee from justice. Considering the entire circumstances, I am of the view that the petitioners could establish a prima facie case for getting the benefits contemplated under Section 438 of the Code of Criminal Procedure.

In the result, this Bail Application is allowed as follows :

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

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

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

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