

(2021) 09 KL CK 0069
In the High Court Of Kerala
Case No : Bail Appl. No. 6706 Of 2021

Sayyed Hameed Mufirudheen

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 09-09-2021

Acts Referred:

Code of Criminal Procedure 1973 — Section 439
Indian Penal Code, 1860 — Section 363, 394, 450

Citation : (2021) 09 KL CK 0069

Hon'ble Judges : K.Haripal, J

Bench : Single Bench

Advocate : P.C.Muhammed Noushiq, Jahana Sherin.K, T.R.Renjith

Final Decision : Allowed

Judgement

K.Haripal, J

1. This is an application for bail moved under Section 439 of the Cr.P.C. The petitioner is the second accused in Crime No.457/2021 of Kasaragod Police Station, which was registered on 23.06.2021 alleging offence punishable under Sections 450, 363 and 394 of the IPC. The crime was registered on the strength of the First Information Statement given by one Ahammed Niyas S/o Hamsa. He is a resident of Azad Nagar and is a gulf returnee. On the date of occurrence, on 22.06.2021, his wife was in hospital, after giving birth to a child. That day at about 08.45 p.m, he returned to home after attending the wife in hospital. At about 9.15 p.m, he reached Pattampara along with his friend Yasar, in his car. At that time, one Thangal entered the rear seat of the car and pointed a knife at his neck, when he ran out of the car, one Ishak stopped him, another person aged about 30 years tied him to the back seat of another car and manhandled him. Then he was taken to Kunjar, his car was also taken away by the gang. The mobile phone and purse carried by him were forcibly taken by them. After travelling through interior places, at about 02.30 a.m they reached his house; the said Thangal broke opened the back door of the house and all the three

persons got inside and forcibly took an amount of Rs.15,000/- and gold chain weighing 1 sovereign and 1 gram. After taking him to the Michugiri, while they were talking outside, suddenly he drove the car and reached Government hospital at 06.30 a.m and sought treatment. In the incident, he lost Rs.12,000/-, his ATM card, Pan card and the driving licence. The incident was the offshoot of some issues with Ishak at Persian Gulf. During the course of investigation, the petitioner/the second accused was arrested on 06.07.2021.

2. The learned counsel for the petitioner submits that the investigation is practically over, the petitioner is in judicial custody for the more than 60 days and that further detention of the petitioner is not warranted.

3. Learned Public Prosecutor submitted that this type of criminal acts are rising in Malabar area, which have to be dealt with an iron hand. According to him, there are three accused in the crime and first accused is not yet arrested. At the same time, he pointed out that three mobile phones, a knife and the car of the defacto complainant have been recovered. Gold chain weighing 9 grams and an ATM card are not yet recovered. He also pointed out that the petitioner does not have criminal antecedents.

4. Petitioner is in judicial custody for more than 60 days. It seems to be the first crime registered against him. For the reason that the first accused is not yet arrested, continued detention of the petitioner is not justifiable.

Except the chain weighing nine grams of gold and an ATM card, all other items have been recovered. Even though the allegations against the petitioner are very serious, having regard to the fact that he does not have criminal antecedents, it seems that he can be released on bail on stringent conditions.

He shall be released on the following conditions:-

- i) The petitioner shall execute bond for Rs.50,000/-(Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional court;
- ii) He shall not try to contact or influence the witnesses or tamper with the evidence;
- iii) He shall not enter Kasaragod district till the final report is laid.
- iv) He shall not leave the country without permission of the jurisdictional Court;
- v) He shall not involve in any crime during the period on bail;
- vi) He shall appear before the Investigating Officer/committal/trial court as and when required;
- vii) The petitioner shall strictly follow the various guidelines issued by the State and Central Governments with respect to keeping of social distancing in the wake of Covid 19 pandemic;

viii) If any of the above conditions are violated by the petitioner, the jurisdictional Court will be at liberty to cancel the bail in accordance with law.

The bail application is allowed as above.