

(2021) 03 KL CK 0009

In the High Court Of Kerala

Case No : Bail Application No. 1976 Of 2021

Shino Mathew @Chakkara

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 01-03-2021

Acts Referred:

Indian Penal Code, 1860 — Section 143, 147, 148, 149, 294(b), 308, 323, 324, 341, 506

Citation : (2021) 03 KL CK 0009

Hon'ble Judges : Shircy V, J

Bench : Single Bench

Advocate : A.C. Venugopal, Ajith Murali

Judgement

1. Application for regular bail.

2. Petitioner is the second accused in Crime No.16/2021 of Kudiyanmala Police Station, registered for the offences punishable under Sections 143, 147, 148, 341, 323, 324, 506, 294(b), 308 and 149 of the Indian Penal Code.

3. The prosecution allegation is as follows:

On 23.01.2021 at about 4.30p.m while the de facto complainant and his friends were travelling, the car met with an accident. While they were

repairing the car, this petitioner along with the other accused have reached the spot and after forming an unlawful assembly they attacked the defacto

complainant and his friends and caused injuries raising claim over the property where the accident occurred and thereby this petitioner and the other

accused have committed the aforesaid offences.

4. The petitioner has been in custody since 27.01.2021.

5. The learned counsel for the petitioner submits that the petitioner is innocent

and he has not committed any offence as alleged. In fact, his brother was travelling in a motor cycle along with his 4 year old child through the public road and he happened to see an accident and he made an enquiry out of curiosity. Then the de facto complainant and his friends who were intoxicated with the liquor attacked him and the child. On getting information about the incident, this petitioner rushed to the spot and then he was also assaulted by the de facto complainant in an inebriated condition. But the crime has been registered against this petitioner and his brother at the instigation of the de facto complainant. This petitioner is in judicial custody since 27.01.2021 and hence this application.

6. The learned Public Prosecutor though opposed the application submitted that a crime has been registered against the de facto complainant for having assaulted the minor child as Crime No.26/2021 and it is pending investigation. A perusal of the records, especially the wound certificate of one Shijo Mathew, the brother of this petitioner would reveal that he had sustained various injuries and he was taken to the hospital for treatment in the alleged assault at 05.00 p.m on 23.01.2021.

Considering the nature of the accusation levelled against this petitioner and especially the fact that the minor child of his brother had also sustained injuries in the attack by the de facto complainant and his friends, I think that this is a fit case in which he can be released on bail even after completion of the investigation of the case. Hence, I am inclined to release him on bail, subject to the following conditions:

- (i) The petitioner shall be released on bail on his executing a bond for a sum of Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties for the like sum each to the satisfaction of the court having jurisdiction.
- (ii) He shall be available before the Investigating Officer for interrogation as and when required by him, in writing.
- (iii) He shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence.
- (iv) He shall not commit any offence while on bail.

In case of violation of any of the above conditions, the learned Magistrate/Judge is empowered to cancel the bail in accordance with the law.