

(2021) 02 KL CK 0169

In the High Court Of Kerala

Case No : Bail Application No. 47 Of 2021

Sreejith P.C And Ors

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 16-02-2021

Acts Referred:

Indian Penal Code, 1860 — Section 143, 147, 148, 149, 294(b), 323, 341, 452Kerala Health Care Services Persons And Health Care Institutions (Prevention Of Violence And Damage To Property) Act, 2012 — Section 3, 4

Citation : (2021) 02 KL CK 0169

Hon'ble Judges : Ashok Menon, J

Bench : Single Bench

Advocate : A.C. Devy, Santhosh Peter

Final Decision : Allowed

Judgement

1. The applicants are accused Nos. 1 to 7 in Crime No. 9/2021 of the Mala Police Station, for having allegedly committed offences punishable under Section 143, 147, 148, 341, 323, 452, 294(b) r/w Section 149 of the IPC and under Section 3 r/w Section 4 of the Kerala Health Care Services Persons and Health Care Institutions (Prevention of Violence and Damage to Property) Act, 2012.

2. Prosecution case in brief is that in connection with the New Year celebration on 01.01.2021 at about 2.00 am, the applicants formed an unlawful assembly and in prosecution of the common object of the said unlawful assembly, accused Nos. 1 to 4 trespassed into Gurudharmam Mission Hospital, Mala to manhandle the hospital employees and the defacto complainant an Ambulance Driver who was standing at the entrance of the hospital, was asked him about one Vinayakan, and he refused to respond. Irrked by his reply, the applicant Nos. 1 to 4 allegedly assaulted him with hands and thereafter all the remaining accused trespassed into the Causality area and again manhandled the defacto complainant and when the duty doctor and tried to intervene, the applicants allegedly took the chair and intimidated the doctor and also abused him.

3. The applicants state that the allegations are not true and that no hurt was caused to the defacto complainant as alleged, and that they had only enquired about the admission of a person named Vinayakan in the hospital to which the ambulance driver got wild at them, and there was an altercation and scuffle between them, but no injuries were caused. There was no intention on the part of the applicants to disrupt the functioning of health services. Hence they seek pre-arrest bail.

4. Heard the learned counsel for the applicants and the learned Public Prosecutor.

5. The learned Public Prosecutor submits that the applicants had trespassed into the hospital enquiring about one Vinayakan. If that be so, it cannot be assumed that the applicant had entered the hospital premises after having made preparation to commit the offence of assault. Moreover, it is doubtful whether the hospital is a dwelling house coming within the definition of Section 452 of the IPC. Therefore the IPC offences are all bailable. Regarding the offence committed under the Health Care Services Act, I find that the applicants did not have any intention to cause disruption to the health care services as alleged. There was a scuffle between the applicants and the ambulance driver. The intention of the applicants does not appear to cause disruption of the health service. The applicants have no criminal antecedents and therefore the applicants are entitled to pre-arrest bail. Hence, this application is allowed. The applicants shall surrender before the investigating officer within two weeks from today. After interrogation, in the event of their arrest, they shall be released on bail on their executing a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) each with two solvent sureties each for the like sum to the satisfaction of the investigating officer and on the following conditions:

(i) The applicants shall appear before the Investigating Officer as and when called for.

(ii) They shall not tamper with evidence, intimidate or influence witnesses.

(iii) They shall not get involved in similar offences during the bail period.

In case of the breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail.