

(2022) 05 KL CK 0184

In the High Court Of Kerala

Case No : Bail Application No.3890 Of 2022

Vishnu Alias Vishnu Pradeep

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 30-05-2022

Acts Referred:

Indian Penal Code, 1860 — Section 143, 147, 148, 149, 308, 323, 324, 341, 427, 448, 506

Kerala Health Care Service persons and Health Care Service Institution (Prevention of violence and damage to property) Act, 2012 — Section 3, 4

Citation : (2022) 05 KL CK 0184

Hon'ble Judges : P.V.Kunhikrishnan, J

Bench : Single Bench

Advocate : V.A.Johnson, Deepa Narayanan

Final Decision : Allowed

Judgement

P.V.Kunhikrishnan, J

1. This bail application is filed under Sec.439 of Criminal Procedure Code.
2. Petitioners are avcused Nos. 2,3 and 5 in crime No. 437 of 2022 of Kunnamkulam Police Station. The above case is registered against the petitioners and others alleging offences punishable under Sections 143, 147, 148, 448, 506, 341, 323, 324, 308, 427 r/w 149 IPC. The offence under Section 3 read with Section 4 of Kerala Health Care Service persons and Health Care Service Institution (Prevention of violence and damage to property) Act, 2012 is also alleged.
3. The prosecution case is that on 27.03.2022 at 10.00 p.m, accused formed themselves into an unlawful assembly and attacked the de facto complainant and his brother by restraining them in front of the casualty of Government Hospital, Kunnamkulam. The 1st accused beat the de facto complainant with iron pipe on his head. The 2nd accused stabbed him with a knife on his neck and 2nd accused

stabbed the brother of the de facto complainant also with a knife. When one of the injured, who was attacked by the very same accused on the same day came out of the ward of the hospital, it is alleged that the accused Nos. 3 and 4 dragged him into the veranda of the casualty. It is further alleged that accused No.1 beat him with iron pipe on his head and accused Nos. 3 to 6 kicked and beat de facto complainant and others. It is also alleged that the accused destroyed the wheel chair of the hospital and mobile phone of the de facto complainant. Hence it is alleged that the accused committed the offence. The petitioners are in custody from 1.4.2022 onwards.

4. Heard counsel for the petitioners and the Public Prosecutor.

5. The counsel for the petitioners submitted that this Court as per Annexure-I order dismissed the bail application of the petitioners and allowed the bail application filed by the 6th accused. The counsel for the petitioners submitted that the petitioners are in custody from 1.4.2022 and the petitioners are ready to abide any conditions, if this Court grant them bail. The learned Public Prosecutor seriously opposed the bail application. The Public Prosecutor submitted that the petitioners are involved in other cases. The 1st petitioner, who is the 2nd accused in this case is involved in 8 other criminal cases. The accused Nos.3 and 5 who are the petitioners 2 and 3 in the bail application are involved in 5 criminal cases. Therefore, the Public Prosecutor submitted that the petitioners may not be released on bail. But the Public Prosecutor based on the instructions of the Sub-Inspector of Police, Kunnankulam Police Station dated 10.5.2022 submitted that the final report is already filed.

6. This Court considered the contentions of the petitioners and the Public Prosecutor. It is true that the petitioners are involved in other criminal cases. But, it is a fact that the final report is already filed before the competent court in this case. The petitioners are in custody from 1.4.2022 onwards. Simply because the petitioners are accused in other criminal cases, that alone is not a ground to deny bail. This point is considered by the Apex Court in *Maulana Mohd. Amir Rashadi v. State of UP and anr.* [2012 (2) SCC 382]. Therefore, in the light of the fact that the final report is already filed and taking into consideration the period of detention, I think this bail application can be allowed on stringent conditions.

7. Considering the facts and circumstances of this case, this bail application of the petitioners is allowed with the following directions:

1. Petitioners shall be released on bail on executing a 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.

2. Petitioners shall appear before the Investigating Officer for interrogation as and when required. The petitioners shall cooperate with the investigation and 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.

3. Petitioners shall not leave India without permission of the jurisdictional Court.
4. Petitioners shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.
5. If any of the above conditions are violated by the petitioners, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court. The prosecution and the victim are at liberty to approach the jurisdictional court to cancel the bail, if there is any violation of the above conditions.