

(2023) 03 KL CK 0232
In the High Court Of Kerala
Case No : Bail Application No. 1403 Of 2023

V.M. Rajesh

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 24-03-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 405, 406, 424

Citation : (2023) 03 KL CK 0232

Hon'ble Judges : A. Badharudeen, J

Bench : Single Bench

Advocate : K.P.Madhu, T V Neema

Final Decision : Allowed

Judgement

A. Badharudeen, J

1. This is an application for anticipatory bail filed by Sri V.M.Rajesh, who got arrayed as an accused in Crime No.1329 of 2022 of Vaikom Police Station.
2. Heard the learned counsel for the petitioner and the learned Public Prosecutor. Perused the relevant documents forming part of the case diary.
3. The prosecution case is that the petitioner/3rd accused along with other accused while administering the committee pertaining to Bhagavathy Temple, Polassery, Vaikom during 2019-2021, misappropriated gold ornaments and money as that of the temple and thereby cheated the defacto complainant, who represents the temple and the believers.
4. When C.M.P.No.3159/2022 was filed before the Judicial First Class Magistrate Court, Vaikom, the same was forwarded and accordingly crime alleging commission of offences punishable under Sections 405, 406, 120B, 424 r/w 34 of the Indian Penal Code was registered. The learned counsel for the petitioner would submit that the petitioner herein worked as Secretary of the administrative committee of the temple for a short period and thereafter he resigned, due to

difference of opinion. It is also submitted that the allegations are false and this case was registered on the basis of political rivalry in between the present administrative committee and the former administrative committee, to which the petitioner was the Secretary till his resignation. According to the learned counsel for the petitioner, even as per the admitted case, it has been stated that the present administrative committee received a portion of the gold and money misappropriated by the accused persons. According to the learned counsel for the petitioner, the entire money and the gold belonged to the temple were handed over and the allegations of misappropriation are false.

5. Whereas the learned Public Prosecutor strongly opposed grant of bail on the submission that the absolute innocence, as canvassed by the learned counsel for the petitioner in so far as the Secretary of the temple is concerned, cannot be believed at this moment. According to the learned Public Prosecutor, though this crime was registered on the basis of a private complaint lodged, the allegations are serious. Therefore, arrest and custodial interrogation are necessary.

6. On perusal of the case diary, the prosecution allegation is that the accused herein, hatched a conspiracy and thereby misappropriated Rs.7,46,213/- as well as 205.940 gram of gold. Thereafter, they have entrusted a small portion of the gold ornaments and the money to the newly elected administrative committee and misappropriated the remaining amount. At present, the prosecution allegation is that after entrustment of a portion of the gold and Rs.65,000/- as on 12.09.2021 by the accused to the present administrative committee, 35.500 of gold chain and Rs.6,81,213/- towards the amount misappropriated, are yet to be returned by the accused.

7. Prima facie, the allegations could be read out from the private complaint lodged along with the prosecution materials available. However, the misappropriation is pertaining to the administration of the temple. The same requires fair and impartial investigation to unearth the same. Since the learned counsel for the petitioner submitted that the petitioner is ready to co-operate with the investigation, I am inclined to release the petitioner on anticipatory bail with a specific direction to subject himself for interrogation for the purpose of investigation for a period of two days in between 10 a.m and 4 p.m.

8. Accordingly the bail plea at the instance of the petitioner stands allowed on the following conditions:

(i) The petitioner shall surrender before the Investigating Officer for 2 days, ie. On 02.04.2023 and 03.04.2023, in between 10 a.m and 3 p.m, for interrogation. The Investigating Officer can interrogate him and on completion of interrogation within the above time specified, if he will be arrested, the petitioner shall be produced before the jurisdictional court on the date of arrest itself;

(ii) On such production, the jurisdictional court shall release the petitioner on bail, on his executing bond for Rs.50,000/-(Rupees Fifty Thousand Only) with two solvent sureties each for the like amount to the satisfaction of the

jurisdictional court concerned.

iii) Accused/petitioner shall not intimidate the witnesses or tamper with evidence. He shall co-operate with the investigation and shall be available for trial.

(iv) He shall visit the Investigating Officer on every Monday in between 9 a.m and 12 noon for a period of six weeks and also appear before the Investigating Officer as and when directed.

(v) Accused/petitioner shall not leave India without prior permission of the jurisdictional court.

(vi) Accused/petitioner shall not involve in any other offence during the currency of bail and any such event, if reported or came to the notice of this Court, the same shall be a reason to cancel the bail hereby granted.