
(2020) 12 KL CK 0197

High Court Of Kerala

Case No: Bail Application No. 7955 Of 2020

Shyju And Anr

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: Dec. 14, 2020

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 107, 437, 438
- Indian Penal Code, 1860 - Section 34, 294(b), 308, 399, 506(1)
- Explosive Substances Act, 1908 - Section 9(B)(1)

Hon'ble Judges: Ashok Menon, J

Bench: Single Bench

Advocate: N.L. Bitto, C.N. Prabhakaran

Judgement

1. This is an application for anticipatory bail under Section 438 of Cr.P.C.

2. The applicants are accused 1 and 2 in Crime NO.1141/2020 of Chalakkudy Police Station for having allegedly committed the offences punishable

under Sections 294(b), 506(1) and 308 read with Section 34 of the Indian Penal Code and under Section 9B(1) of the Explosive Substance Act.

3. The prosecution case, in brief, is that on 02.10.2020 at about 4.30 PM, the applicants along with another person reached the scene of occurrence in

front of the house of the de facto complainant on a motorcycle and threw a bomb near his house and thereafter intimidated the de facto complainant

and hurled abuses at him and thus attempted to commit culpable homicide not amounting to murder.

4. The applicants submit that they are innocent and the allegations are not true and that they are implicated only because some other earlier crimes

were registered against them. Hence, they seek anticipatory bail.

5. Heard the learned Counsel for the applicants and the learned Public Prosecutor.

6. The learned Public Prosecutor submits that the applicants have notorious criminal antecedents and that they are history-sheeters involved in several

crimes. The learned Counsel appearing for the applicants submits that there are only two more cases pending against the applicants, which are under

Sections 399 and 308 of the I.P.C. and those crimes are of the year 2016. The learned Public Prosecutor in answer to that points out that three crimes

are already pending of the years 2019 and 2020, apart from the instant crime. That apart, consequent to this crime, the applicants have been involved

in offences under the NDPS Act and also under the Explosive Substances Act. Section 107 Cr.P.C. proceedings have also been initiated against the

applicants, who are history-sheeters. Hence, they cannot be granted the extraordinary remedy of anticipatory bail in this crime.

7. After having heard the submissions made on both sides, I find that the applicants have been criminal antecedents and they are history-sheeters and

also proceeded under Section 107, Cr.P.C. and as pointed out by the learned Public Prosecutor. There are also no less than four other crimes

registered against them in the year 2019 and 2020. Considering all these facts and circumstances, I find that the applicants are not entitled to the

exceptional remedy of anticipatory bail in this crime. The applicants are therefore directed to surrender before the investigating officer within two

weeks. After interrogation and recovery, if any, and in the event of their being arrested, they shall be produced before the jurisdictional court, where

they are at liberty to apply for regular bail, which shall be considered and disposed of preferably on the very same day.

8. The learned Counsel also submits that the 1st accused had sustained serious injuries to both his hands and sustained multiple fractures on his head

and has also produced a medical certificate to that effect at Annexure-3. While considering the bail application filed by the applicants, the jurisdictional

court is directed to consider these aspects also and see whether the 1st applicant is entitled to the benefit of the proviso under Section 437 of the

Cr.P.C.