
**Fijas Vs Sub Inspector Of Police, Karipur Police Station, Malappuram
District, Pin - 673638**

Bail Appl. No. 5710 Of 2021

Court: High Court Of Kerala

Date of Decision: Sept. 15, 2021

Acts Referred:

Indian Penal Code, 1860 " Section 34, 363, 392, 394

Hon'ble Judges: Shircy V, J

Bench: Single Bench

Advocate: Unnikrishnan.V.Alapatt, C.K.Suresh

Final Decision: Allowed

Judgement

Shircy V, J

1. Application for regular bail.

2. The petitioner is the 1st accused in Crime No. 192 of 2021 of Karipur Police Station registered for the offences punishable under Sections 363, 392

and 394 read with Section 34 of Indian Penal Code.

3. The petitioner has been in custody since 25.06.2021.

4. The prosecution allegation is that on 21.06.2021 by about 4.40 Hrs. the defacto complainant arrived at Calicut Airport from Quatar. While so, this

petitioner along with the other accused kidnapped the defacto complainant from the Airport and took him in a car to a lodge and wrongfully confined

him in a room and robbed the entire money, mobile phones and other valuable items in his baggage. They have also assaulted him and caused injuries

to him and thereby they have committed robbery.

5. The learned counsel has a case that this petitioner has been implicated in this case as he is having acquaintance with the accused who is arraigned

as accused No.18 in Crime No. 175 of 2021 of Karipur Police Station. He too was falsely implicated as accused No.16 in that crime also. But, in fact

he is totally innocent of the allegations levelled against him and he has absolutely no connection with the alleged incident. Hence, this application.

7. The learned Public Prosecutor strenuously opposed this application contending that this petitioner is a member of a gang engaged with smuggling of

gold. In fact they have abducted the defacto complainant under the belief that he was carrying smuggled gold and in order to snatch away that gold

from him, he was abducted by the petitioner and his gang. But they could not find out any smuggled items in his baggage. Only for the purpose of

snatching away the smuggled items, they have taken him to a lodge and confined him and then snatched away his valuable belongings. So, the illegal

activities committed by this petitioner would reveal that he has strong connection and transaction with the smugglers in Kerala and so granting of bail

at this stage will definitely cause obstacles to the smooth course of investigation. Hence, this application is opposed.

8. This petitioner is the 1st accused in this crime. He is also involved in Crime No. 175 of 2021 of Karipur Police Station. The materials so far

collected by the investigating agency would reveal that the defacto complainant was abducted by this petitioner along with the other accused so as to

loot the smuggled gold. But, on the relevant day the defacto complainant was not carrying any smuggled gold as expected by this petitioner and his

gang. The allegations levelled against this petitioner is no doubt grave and serious in nature. But, it could be seen that the investigation of the case has

progressed considerably and most of the accused persons have been apprehended. They have also collected the CCTV footage of the place where

this defacto complainant was wrongfully confined by the petitioner and the other accused. Most of the materials looted by the petitioners have also

been recovered at the instance of this petitioner. So, I find that further detention of this petitioner is not necessary for the investigating agency for the

prosecution case.

Therefore, this application is allowed subject to the following conditions:

(i) The petitioner shall be released on bail on his executing a bond for a sum of Rs.2,00,000/- (Rupees Two lakhs only) with two solvent sureties for the like sum each

to the satisfaction of the court having jurisdiction. One of the sureties should be a close relative of the petitioner.

(ii) The petitioner shall appear before the Investigating Officer on every Saturday between 10.30 a.m. and 11.30 a.m. for a period of three months or till the filing of the

final report, whichever is earlier.

(iii) The petitioner shall surrender his passport before the court concerned in case he possesses one and if not, file an affidavit to that effect.

(iv) The petitioner shall leave State of Kerala only with the prior permission of the jurisdictional court.

(v) The petitioner 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.

(vi) The petitioner shall not commit any offence while on bail.

In case of violation of any of the above conditions, the jurisdictional court is empowered to cancel the bail in accordance with the law.