
(2022) 02 KL CK 0004

High Court Of Kerala

Case No: Bail Application No. 712 Of 2022

Santhosh Kumar @ Hari

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: Feb. 1, 2022

Acts Referred:

- Indian Penal Code, 1860 - Section 294(b), 308, 323, 326, 452

Hon'ble Judges: Gopinath P, J

Bench: Single Bench

Advocate: Shahir Showkath Ali, P.A.Mohammed Shah, M.C. Ashi

Final Decision: Dismissed

Judgement

Gopinath P, J.

1. The petitioners are the accused in Crime No.27/2022 of Erumeli Police Station, Kottayam District alleging commission of offences under Sections

452, 294 (b), 308, 326, 323 read with Section 34 of the Indian Penal Code.

2. The allegation against the petitioners is that they attacked the de facto complainant at the Devaswom Board Stadium, Erumeli resulting injuries

including fracture to the wrist bone of the de facto complainant. It is alleged that the de facto complainant was attacked using an iron rod.

3. The learned counsel for the petitioners would submit that there is a dispute between the petitioners and the de facto complainant regarding the

auctioning of parking area from the Devaswom Board. It is submitted that for past many years, the de facto complainant and his associates had been

successful in winning the bid and were operating the parking lot. It is submitted that this year the petitioners had been successful in winning the bid and

this led to a dispute between the petitioners and the de facto complainant. It is submitted that the injuries to the de facto complainant including the fracture was not caused on account of any attack by the petitioners but owing to the fact that the de facto complainant had fallen down in a highly inebriated condition. It is submitted that though the incident is alleged to have taken place on 10-01-2022, a complaint in this regard has been registered on 13-01-2022.

4. The learned Public Prosecutor vehemently opposes the grant of bail. He points out with reference to the wound certificate in respect of the de facto complainant that fairly serious injuries were caused to the de facto complainant including a fracture. It is submitted that though there are some disputes between the petitioners and the de facto complainant, that by itself is no reason to believe that the petitioners were not guilty of the offences alleged against them. It is submitted that the release of the petitioners on bail will not be conducive to the prosecution.

5. Having regard to the facts and circumstances of the case and considering the fact that the petitioners have been in custody from 14-01-2022 and considering the fact that no antecedents have been reported against them and also considering the fact that the investigation can be carried out without further custody of the petitioners, I am of the view that the petitioners can be granted bail.

In the result this bail application is allowed. It is directed that the petitioners shall be released on bail, subject to the following conditions:-

- (i) The petitioners shall execute separate bonds for sums of Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court;
- (ii) The Petitioners shall report before the Investigating officer in Crime No.27/2022 of Erumeli Police Station on every Saturday at 11 a.m until filing of final report in the aforesaid crime;
- (iii) The petitioners shall not attempt to interfere with the investigation, influence or intimidate the de facto complainant or any witness in Crime No.27/2022 of Erumeli Police Station;
- (iv) The petitioners shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the Investigating officer in Crime No.27/2022 of Erumeli Police Station may file an application before the jurisdictional Court for cancellation of bail.