

Benson Baby Augustin Vs State Of Kerala

Court: High Court Of Kerala

Date of Decision: March 26, 2024

Acts Referred: Code of Criminal Procedure, 1973 " Section 438
Indian Penal Code, 1860 " Section 34, 294(b), 354A, 385, 406, 498A

Hon'ble Judges: P. G. Ajithkumar, J

Bench: Single Bench

Advocate: K.K.Dheerendrakrishnan, N.P.Asha, Prashanth M P

Final Decision: Dismissed

Judgement

P. G. Ajithkumar, J.

1. This is an application for anticipatory bail filed under Section 438 of the Code of Criminal Procedure, 1973.

2. The petitioners are the accused in crime No.1140/2023 of the Kumily Police Station. The offences alleged were under Sections 294(b), 354A, 385,

406 and 498A read with Section 34 of the Indian Penal Code.

3. The prosecution case is as follows: the first petitioner married the defacto complainant on 20.08.2014 and while they were residing together as

husband and wife, she was subjected to cruelty and harassment on several occasions. Accused Nos.2 and 3 are the parents of the first petitioner.

They also used to torture the defacto complainant with a view to extract more money from the defacto complainant. While so, on a day in May 2022,

the first petitioner strangled the defacto complainant using a shawl. The further allegations are the petitioners misappropriated the gold ornaments

and money belonging to the defacto complainant.

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

5. The learned counsel for the petitioners would submit that the crime was registered on the basis of a private complaint filed by the defacto

complainant much after the alleged incidents. There was another incident where, the first petitioner was inflicted injuries by the defacto complainant

and her father. The final report alleging commission of offences of causing hurt using dangerous weapons and cognate offences was already

submitted in that matter. It is their contention that considering the nature of the offences and the complicity alleged against them, their custodial

interrogation is absolutely unnecessary.

6. The learned Public Prosecutor, on the other hand, would contend that the petitioners have actively involved in the commission of the offence and as

such, their custodial interrogation is absolutely necessary. Therefore, the application is liable only to be dismissed.

7. Considering the whole circumstances and the materials on record, I am of the view that the petitioners can be granted anticipatory bail on strict

conditions.

8. In such circumstances, this bail application is disposed of and the first petitioner is directed to surrender before the investigating officer within one

week. After interrogation and necessary process of investigation, he shall be released on bail on the execution of a bond for Rs.50,000/- (Rupees fifty

thousand only), with two solvent sureties for the like amount each, to the satisfaction of the investigating officer, and on the following conditions:

(i) He shall appear before the Investigating Officer on every Tuesday and Friday for a period of three months or till the final report is filed, whichever is earlier;

(ii) He shall not leave the limits of the jurisdictional court without prior permission of the Magistrate until further orders;

(iii) He shall not influence or intimidate witnesses or tamper with evidence; and

(iv) During the bail period, he shall not get involved in any offence.

9. It is further ordered that, in the event of the arrest of petitioner No.2 and 3, they shall be released on bail on their executing of a bond for

Rs.50,000/- (Rupees fifty thousand only), with two solvent sureties for the like amount each, to the satisfaction of the investigating officer, subject to

the condition that they shall be present before the Investigating Officer as and when required.

In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court.