

(2024) 04 KL CK 0180

High Court Of Kerala

Case No: Bail Application No. 2703 Of 2024

Anwar Sadique K

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: April 2, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 438
- Indian Penal Code, 1860 - Section 34, 341, 342, 353, 354

Hon'ble Judges: A.Badharudeen, J

Bench: Single Bench

Advocate: P.M.Ziraj, Irfan Ziraj, M P Prashanth

Final Decision: Dismissed

Judgement

A. Badharudeen, J

1. This is an application for anticipatory bail filed under Section 438 of the Code of Criminal Procedure by the 1st accused in Crime No.296/2024 of Tirur Police Station, Malappuram.

2. Heard the learned counsel for the petitioner and the learned learned Public Prosecutor. Perused the relevant documents.

3. The prosecution case is that at about 4.30 pm on 24.02.2024, the accused persons, in furtherance of their common intention, caught hold the hand and the sleeve of the apron of the Advocate Commissioner, who is the defacto complainant in this case, deputed by the Munsiff Court, Tirur in O.S.No.66/2024 for conducting local investigation at South Pallar and also the accused pushed her on a wall. Thus the duty of the Advocate Commissioner was obstructed and her modesty was outraged, while

she was on her official duty to execute the order of the court. On this premise, the accused alleged to have committed the offences punishable under Sections 353, 354, 341 and 342 read with Section 34 of IPC.

4. While canvassing anticipatory bail to the 1st accused, who alleged to have obstructed the duty of a Advocate Commissioner and outraged her modesty, while executing the work of local inspection, it is zealously argued by the learned counsel for the petitioner that the petitioner is innocent and the petitioner is not a party to the suit, though the 2nd accused is a party to the suit. According to him, no overt acts warranting registration of crime alleging commission of offences punishable under Sections 353 and 354 of IPC could be noticed from the complaint and therefore, the petitioner deserves anticipatory bail.

5. The learned Public Prosecutor opposed bail on the submission that the allegations against the petitioner are serious since he had obstructed the duty of the Advocate Commissioner while conducting local inspection. He also submitted that the 2nd accused was arrested and later, released on bail. According to the learned Public Prosecutor, very serious offences are committed by the accused and therefore, arrest and custodial interrogation of the petitioner are necessary, for effective investigation of the case. Therefore, this petition deserves dismissal.

6. I have perused the complaint lodged by the Advocate before the Station House Officer. In paragraph No.3 of the complaint, the de facto complainant precisely stated the overt acts at the instance of the accused and the same is as under:

"3. I reached the spot on 24-02-2024. When I reached the spot at about 4.30 evening, I started my work. I measured the width of the disputed way at certain points. At that time, the accused shown herein rushed to me and started shower abuses, obscene and rebuke. They have been uttering unprintable unparliamentary words against me. They have prevented me from moving backward, forward and sideways. I am forcibly pushed to lean on a wall. On person whose name is Sakariya (He is a K.S.E.B employee and wearing a tag and came in on a motor cycle KL-55/J 172) caught hold of my hands and sleeve of my apron and forcibly took away the papers from my hands. All of them have been doing this with common intention to commit an offence. All of them have been doing the same manner. He has outraged the modesty and had been hurting my womanhood. They did not allow me to go outside also. They prevented me from doing my official duty and I could not discharge the duty as authorized by the court."

7. On perusal of the complaint along with other records, prima facie, commission of offences alleged by the prosecution is made out. It is heart breaking to note that the tendency to attack courts and officials of the court has been a new threat to the

smooth functioning of the judicial system. If such acts/attempts are viewed lightly, the very existence of judicial system will be in peril, which would tantamount to deterioration of the democratic principles enshrined in the Constitution of India. Therefore, any such attempts to be addressed with extreme seriousness and the accused/ culprits behind this should be dealt sternly and strictly to protect the smooth functioning of the judicial system. An Advocate Commissioner is an officer of the court and the work of the Commissioner is part of administration of justice by the court. Therefore, attack against an Advocate Commissioner, while doing the assigned duty by a court of law to be stemmed as attack against the judiciary and such attacks could not be pardoned or viewed lightly. Holding so, this is not a fit case to grant anticipatory bail to the petitioner.

In the said circumstances, this bail application stands dismissed. However, there shall be a direction to the petitioner to surrender before the Investigating Officer within ten days from today. On his surrender, the investigating officer can interrogate the petitioner and in the event of his arrest, he shall be produced before the Jurisdictional Court, as per law, without fail.