

Kerala High Court

Mathew Pathisseril vs State on 11 July, 2007

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Bail Appl No. 4194 of 2007()

1. MATHEW PATHISSERIL, AGED 65,
... Petitioner

Vs

1. STATE, REPRESENTED BY THE
... Respondent

For Petitioner :SRI.B.RAMAN PILLAI

For Respondent :PUBLIC PROSECUTOR

The Hon'ble MR. Justice R.BASANT

Dated :11/07/2007

O R D E R

R. BASANT, J.

B.A. NO. 4194 OF 2007

Dated this the 11th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Sec.3 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act.

2. The prayer for anticipatory bail is obviously not sustainable in view of the specific bar under Sec.18 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. The learned counsel for the petitioner, in these circumstances, only seeks a lesser relief. He prays that there may be a direction to the learned Magistrate to consider the bail application on merits, in accordance with law and expeditiously. Merely because the offence is triable by a Court of Session, the learned Magistrate may not take the view that he is not jurisdictionally competent to consider the bail application. With that clarification and with a direction to dispose of the matter on the date of surrender itself, this Court may dispose of the petition, it is submitted.

3. It is certainly for the petitioner to appear before the learned Magistrate and seek regular bail. The position of law has been laid down clearly in the decisions reported in Ali v.

State of Kerala (2000 (2) K.L.T. 280); Shanu v. State of Kerala (2000 (3) K.L.T. 452); Krishnakumar v. State of Kerala (2005 (1) K.L.D. (Cri) 42 and P.P. Kader v. State of Kerala (2005 (1) K.L.D. (Cri) 250). I have no reason to assume that the learned Magistrate does not know the law or will not apply the law correctly. Regarding the expeditiously disposal also, I do not think any specific direction is necessary. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in Alice George v. Deputy Superintendent of Police (2003 (1) KLT 339).

3. In the result, this CrI.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE) Nan/ //true copy// P.S. to Judge