

Kerala High Court

Jinesh @ Manikantan vs State Of Kerala on 14 January, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Bail Appl..No. 17 of 2010()

1. JINESH @ MANIKANTAN,
... Petitioner
2. MURUKAN, S/O.BALAKRISHNAN,

Vs

1. STATE OF KERALA,
... Respondent

For Petitioner :SRI.S.MOHAMMED AL RAFI

For Respondent :PUBLIC PROSECUTOR

The Hon'ble MR. Justice K.T.SANKARAN

Dated :14/01/2010

O R D E R

K.T.SANKARAN, J.

B.A.No.17 of 2010

Dated this the 14th day of January, 2010

ORDER

This is an application for anticipatory bail under Section 438 of the Code of Criminal Procedure. The petitioners are accused Nos.1 and 2 in Crime No.249 of 2009 of Pozhiyoor Police Station, Thiruvananthapuram District.

2. The offences alleged against the petitioners are under Sections 323 and 326 read with Section 34 of the Indian Penal Code.

3. The prosecution case is that on 13.12.2009, at 8 P.M. while the de facto complainant was going home after taking a bath in the river, he was attacked by the accused. The first accused beat him with an iron rod. It is also alleged that the second accused beat him and kicked him. The de facto complainant sustained injuries. The wound certificate discloses that the de facto complainant had sustained fracture on his right forearm.

4. The petitioners have a different story. It is stated that on 13.12.2009, at about 1 P.M., the motor bike driven by the first petitioner and another bike driven by one James had a collision. The de facto complainant was the pillion rider on the motor bike of James. There was no complaint for either party. The first petitioner went home. In the evening, the de facto complainant picked up a quarrel with the first petitioner in respect of the incident which took place at 1 P.M. The first petitioner was attacked by the de facto complainant. The first petitioner sustained injuries. He was admitted in the hospital and he was treated as an inpatient in the hospital for 8 days. Crime No.258 of 2009 was registered against the de facto complainant under Sections 294(b), 341 and 323 of the Indian Penal Code.

5. It is stated that the second petitioner is the father of the first petitioner. The allegation against the second petitioner is beating with hands and kicking. The injury sustained by the de facto complainant is not attributable to any overt act done by the second accused. In these circumstances, I am inclined to grant anticipatory bail to the second petitioner (second accused). However, taking into account the facts and circumstances of the case, the nature and gravity of the offence and the injury sustained by the de facto complainant, I am not inclined to grant anticipatory bail to the first petitioner (first accused).

There will be a direction that in the event of the arrest of the second petitioner/second accused (Murukan), the officer in charge of the police station shall release him on bail on his executing bond for Rs.10,000/- with two solvent sureties for the like amount to the satisfaction of the officer concerned, subject to the following conditions:

- a) The second petitioner shall appear before the investigating officer for interrogation as and when required;
- b) The second petitioner shall not try to influence the prosecution witnesses or tamper with the evidence;
- c) The second petitioner shall not commit any offence or indulge in any prejudicial activity while on bail;
- d) In case of breach of any of the conditions mentioned above, the bail shall be liable to be cancelled.

The Bail Application is dismissed in so far as it relates to the first petitioner (first accused) and it is allowed in the manner indicated above in so far as it relates to the second petitioner/second accused.

K.T.SANKARAN, JUDGE csl