

Kerala High Court

Ratheesh Kumar vs State Of Kerala Represented By The on 5 July, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Bail Appl..No. 2367 of 2010()

1. RATHEESH KUMAR,S/O.MADHAVAN,  
... Petitioner

Vs

1. STATE OF KERALA REPRESENTED BY THE  
... Respondent

For Petitioner :SRI.B.MOHANLAL

For Respondent :PUBLIC PROSECUTOR

The Hon'ble MRS. Justice K.HEMA

Dated :05/07/2010

O R D E R

K.HEMA, J.

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Bail Application No.2367 of 2010  
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Dated 5th July, 2010.

O R D E R

This petition is for anticipatory bail.

2. The alleged offence 294(b), 506(ii), 324 and 452 of the Indian Penal Code. According to prosecution, petitioner committed house trespass into the shop room of defacto complainant and assaulted him using a key like object and committed the various offences. He also uttered obscene words against him in public.

3. Learned counsel for petitioner submitted that petitioner and defacto complainant were doing business jointly. It was dissolved and petitioner had gone to defacto complainant, to get the money. At that time, defacto complainant assaulted petitioner with stick and he sustained fracture to his

nose and a crime was also registered against defacto complainant. After seven days, a complaint was registered against petitioner, alleging various offences. The defacto complainant sustained a fracture to the nasal bone. He also sustained contusion. On a complaint made by defacto complainant a case was also registered against petitioner.

4. Learned Public Prosecutor submitted that defacto complainant sustained bite marks on the face as well as on shoulder and he also sustained certain other injuries. Petitioner used a key like object to attack defacto complainant. Learned Public Prosecutor also submitted that delay in lodging the complaint in this case is explained. Since the police allegedly did not register a case, defacto complainant filed a complaint before the Superintendent of Police and thereafter, the case was registered and it took unavoidable delay. He was also hospitalised on the same day of incident. Petitioner had trespassed into the shop room of defacto complainant and committed the acts.

5. On hearing both sides, I find that two cases are registered in respect of the same incident. In the case registered against defacto complainant, petitioner had sustained a fracture to the nasal bone. In this case, defacto complainant also sustained certain injuries. It is revealed from the case put forward by both sides that petitioner had gone to the defacto complainant for asking for money, which he allegedly owed to petitioner. The incident allegedly occurred in defacto complainant's shop. In such circumstances, the mere fact that petitioner sustained a fracture to the nasal bone may not by itself be sufficient to hold at this stage that defacto complainant is the aggressor. The mere registration of two crimes also will not be sufficient to extend any benefit to petitioner. The incident happened when the petitioner went to the defacto complainant, for asking money. Taking all the above facts and circumstances into consideration, I do not think that this is a fit case to grant anticipatory bail.

Petition is dismissed.

K.HEMA, JUDGE.

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