

Anilkumar vs State Of Kerala on 23 March, 2021

Author: Ashok Menon

Bench: Ashok Menon

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ASHOK MENON

TUESDAY, THE 23RD DAY OF MARCH 2021 / 2ND CHAITHRA, 1943

Bail Appl.No.1573 OF 2021

CRIME NO.16/2021 OF Chokli Police Station , Kannur

PETITIONER/S:

ANILKUMAR,
AGED 46 YEARS
PUTHANPURAYIL HOUSE,
KARIYAD SOUTH PO, KARIYAD,
KANNUR DISTRICT - 673316.

BY ADVS.
SMT.POOJA PANKAJ
SRI.P.M.RAFIQ
SRI.M.REVIKRISHNAN
SRI.AJEESH K.SASI
SRI.V.C.SARATH
SRI.VIPIN NARAYAN
SRUTHY N. BHAT

RESPONDENT/S:

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682031.

2* SATHYANANDAN
AGED 53 YEARS
KIZHAKKEDATH THAZHE
KUNIIYIL, PERINGATHOOR AMSOM,
KARIYAD, CHOKLI, PIN - 673316.

*IS IMPEADED AS PER THE ORDER DATED 23.3.2021 IN
CRL.M.A.NO.1/2021.

R1 BY SRI.SANTHOSH PETER SR PP
R2 BY ADV. P.M.SANEER
R2 BY ADV. SRI.SHAJIN S.HAMEED

OTHER PRESENT:

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
23.03.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:
Bail Appl.No.1573 OF 2021

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O R D E R

Dated this the 23rd day of March 2021 This is an application for anticipatory bail under Section 438 of the Cr.P.C.

2. The applicant is the sole accused in Crime No.16/2021 of Chokli Police Station for having allegedly committed the offences punishable under Sections 341, 324 and 307 of the I.P.C.

3. The prosecution case, in brief, is that on 14.01.2021 at about 5.30 PM, at Peringathoor Amsom in Kariyad Bharathipuram, while the de facto complainant and his friends were standing near the bus stop, the applicant reached on a scooter armed with a knife and thereafter attacked the de facto complainant with the intention to commit murder. The de facto complainant evaded the blow with the knife and sustained a lacerated injury measuring 18 x 2 cms. on his forehead and thus the applicant allegedly committed the offence of attempted murder.

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4. The applicant states that the allegations are not true and that earlier he was accused of extortion on the complaint of the de facto complainant's brother, who is a P.W.D. contractor and he was granted anticipatory bail in that Crime No.82/2020 of the same Police Station. It is with the intention to foist another false case against the applicant, that this crime has been registered. It is also stated that it is actually the de facto complainant and his friends, who had intercepted the applicant while he was coming on a scooter and attempted to attack the applicant and during the altercation he fell down and sustained the injury on his forehead. That injury is now attempted to be utilised to support the allegation against the applicant for having attacked the de facto complainant with a knife to commit his murder. In fact, the applicant had no intention to commit murder and he has been falsely implicated, and therefore, seeks pre-arrest bail.

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5. Heard the learned Counsel for the applicant and the learned Public Prosecutor. The learned Counsel appearing for the de facto complainant was also heard.

6. The learned Counsel appearing for the de facto complainant and the learned Public Prosecutor points out the injury that was sustained by the de facto complainant, which according to them cannot be sustained by a mere fall. It was a deliberate attack by the applicant brandishing a knife and because the de facto complainant had succeeded in evading that blow, he sustained an injury on his forehead; otherwise it could have proved fatal. The learned Public Prosecutor submits that there was no need for the applicant to move around with a knife in his possession if he had no intention to commit the murder. The learned Counsel appearing for the applicant explained it by saying that it was the de facto complainant had earlier intimidated in the morning and the applicant anticipated an attack by the de facto complainant and his friends and it was Bail Appl.No.1573 OF 2021 for the purpose of self-defence that he had armed with a knife and when the de facto complainant and his friends ultimately did attack him, the applicant had only brandished the knife and de facto complainant fell down and sustained the injury. There was no injury caused by the applicant with the knife and had the injury been caused with a knife, it could have an incised wound and not a lacerated wound. It is more likely to be caused due to a fall. The learned Public Prosecutor submits that a deep lacerated wound can also be caused by a knife; because there was an evasive action taken by the de facto complainant and the entire sharp edge of the knife could not be employed by the applicant successfully to cause an incised wound.

7. Appreciating the submissions made on both sides, I find that the applicant is accused of a very grave offence. He also was armed with a knife. Whether it was an act of self-defence or whether it was an aggressive act on the part of the applicant, are all matters to be considered by the trial court. Bail Appl.No.1573 OF 2021 Considering the gravity of the offence and the fact that the applicant was earlier accused of committing extortion against the brother of the de facto complainant, I find that he is not entitled to the discretionary remedy of anticipatory bail.

Under the above circumstances, the applicant is directed to surrender before the investigating officer, within two weeks. In the event of his arrest, after interrogation and recovery, he shall be produced before the jurisdiction, where he is at liberty to apply for regular bail, which shall be considered and preferably disposed of on the very same day.

Sd/-

dkr

ASHOK MENON

JUDGE