

Sunil Kumar vs State Of Kerala on 13 January, 2022

Author: P Gopinath

Bench: P Gopinath

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE GOPINATH P.
THURSDAY, THE 13TH DAY OF JANUARY 2022 / 23RD POUSHA, 1943
BAIL APPL. NO. 9792 OF 2021
Crime No.1279/2021 of Piravom Police Station

PETITIONER/ACCUSED:

SUNIL KUMAR
AGED 45 YEARS, S/O. BALAN, KUTTIKATTIL, EZHAKKARNAD,
MANEED, ERNAKULAM, KERALA.

BY ADVS.
GEORGE SEBASTIAN
M.D.SIMY

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE STATION HOUSE OFFICER, PIRAVOM
POLICE STATION, THROUGH PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM-682 031. (CRIME NO.1279/2021 OF
PIRAVOM POLICE STATION, ERNAKULAM DISTRICT.

OTHER PRESENT:

SRI. M.C. ASHI (PP)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
13.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
B.A. No.9792/2021 -2-

ORDER

The petitioner is the accused in Crime No.1279/2021 of Piravom Police Station, Ernakulam District alleging commission of offences under Sections 451, 294 (b) and 323 of the Indian Penal Code.

2. The main allegation against the petitioner is that in violation of a protection order obtained by the de facto complainant under the Protection of Women from Domestic Violence Act, 2005, the petitioner trespassed into the house of the parents of the de facto complainant, where she was residing and abused her and her mother-in-law and thereby committed the offences alleged against him.

3. The learned counsel for the petitioner with reference to the First Information Statement given by the de facto complainant submits that the children born to the petitioner out of the wedlock of the de facto complainant aged 21 and 17 years are residing with the petitioner. It is submitted that the 17 year old daughter of the petitioner had, on the alleged date of incident, gone to the house of the de facto complainant without informing the petitioner. Since she did not return in time she normally does from school, the petitioner went on search of her and he ultimately found that she was in the house of the de facto complainant. He submits that considering the age of the girl he was worried about her whereabouts and this is the only reason why he went to the house of the de facto complainant. It is submitted that all other offences except that under Section 31 of Domestic violence are bailable offences.

4. I have heard the learned Public Prosecutor also. The learned Public Prosecutor also confirms that going by the contents in the First Information Statement, the children of the petitioner are living with him. It is also submitted that going by the contents of the First Information Statement the daughter of the petitioner gone to the house of the de facto complainant on the date of the incident after stating that she was going to school. It is also submitted that a person who violated the order under Domestic Violence Act is not entitled to anticipatory bail.

5. Having regard to the facts and circumstances of the case and considering the circumstances under which the petitioner had gone to the house of the de facto complainant (which appear to be true going by the contents of the First Information Statement given by the de facto complainant) and taking note of the fact that only non-bailable offence alleged against the petitioner is that under Section 31 of the Domestic Violence Act, I am of the view that the petitioner can be granted anticipatory bail subject to conditions.

In the result, this bail application is allowed. It is directed that the petitioner shall be released on bail, in the event of arrest in connection with Crime No.1279/2021 of Piravom Police Station subject to the following conditions:-

(i) Petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court;

(ii) Petitioner shall appear before the Investigating officer in Crime No.1279/2021 of Piravom Police Station as and when summoned to do so;

(iii) Petitioner shall not attempt to contact the de facto complainant or interfere with the investigation or to influence or intimidate any witness in Crime No.1279/2021 of

Piravom Police Station;

(iv) Petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the Investigating officer in Crime No.1279/2021 of Piravom Police Station may file an application before the jurisdictional Court for cancellation of bail.

Sd/-

GOPINATH P. JUDGE AMG