

SESSIONS DIVISION, KOLLAM

IN THE PRINCIPAL SESSIONS COURT

Present: Smt. M.B. Snehalatha, Prl. Sessions Judge, Kollam
Wednesday the 16th day of November, 2022/25th Karthika, 1944

Crl. M.C. No. 2239/2022 in
Crime. No. 1399/2022 of Eravipuram Police Station

Petitioner : Rajeev, Aged. 28 years, S/o. Rajan, Tsunami Flat,
5/6 Snehatheeram, Eravipuram Village, Kollam.

By Adv. Binu Balachandran

Respondent : State of Kerala represented by the Circle Inspector
of Police, Eravipuram Police Station through the
Public Prosecutor, Kollam.

This petition is filed u/s 439 of Cr. P.C having come up for consideration
on 16-11-2022 on the same day the court passed the following.

ORDER

Application under Section 439 Cr.P.C. seeking regular bail.

2. Petitioner is A2 in Crime No. 1399/2022 of Eravipuram Police
Station, registered for the offences punishable under Sections 294(b), 323, 324,
326, 307 and 34 of the Indian Penal Code.

3. Prosecution case is that on 15.10.2022 at 21 hours at Cheriyl
Idakkunnu, accused, in furtherance of their common intention to commit
murder, attacked the de-facto complainant and beaten him with a wooden log
on his head, shoulder and right ear and caused grievous injuries including
internal bleeding in brain. Accused thereby committed the aforementioned
offences.

4. Petitioner/A2 was arrested on 16.10.2022 and he is in judicial custody since then.

5. Petitioner/A2 would contend that he is innocent; that he was falsely implicated. Petitioner/A2 and A1 are known to each other. On 15.10.2022 at about 9 p.m., while the petitioner and his friends were standing at Edakkunnam, they heard a commotion and on reaching the said spot, they could see A1 attacking the de-facto complainant. Petitioner/A2 is not involved in the above crime. Petitioner/A2 only tried to separate the de-facto complainant and A1. Petitioner/A2 is ready to abide by any conditions which may be imposed by this court and he may be released on bail.

6. The learned Public Prosecutor seriously opposed the application for bail reiterating the prosecution allegations. In the factual report filed by the investigating officer, it has been stated that if the petitioner/A2 is released on bail, he may again indulge in similar offence; that there is possibility of accused intimidating and influencing the witnesses.

7. Heard the learned counsel for the petitioner/A2 and the learned Public Prosecutor.

8. Perused the Case Diary made available by the prosecution and the factual report filed by the investigating officer.

9. Prima facie, there are ample materials revealing the involvement of the petitioner/A2 with the crime alleged. There was an attempt on the life of the de-facto complainant. The medical records viz, discharge certificate of the de-facto complainant would prima facie reveal that he sustained traumatic brain injury, acute extradural hematoma, left parieto occipital region, acute subdural hematoma left parieto occipital region, traumatic chest injury and fracture of ribs. Prima facie there are reasonable grounds to believe that the petitioner/A2 has committed the offence alleged.

10. The factors to be borne in mind while considering an application for bail are *(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger of course of justice being thwarted by grant of bail.*

11. The nature and gravity of the offence alleged against the petitioner/A2, the role attributed against him and the fatal injuries sustained by the de-facto complainant are factors which disentitle the release of the petitioner/A2 on bail at this stage. I also find merit in the argument advanced by

the learned Public Prosecutor that if the petitioner/A2 is released on bail at this stage of investigation in a serious crime of this nature, there is every possibility of petitioner/A2 interfering with the investigation by influencing the witnesses and tamper with the evidence. Therefore, I am not inclined to grant bail to the petitioner/A2 at this stage of investigation.

Accordingly, this petition for bail stands dismissed.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open Court on this the 16th day of November, 2022.)

M. B. Snehalatha,
Sessions Judge.

Copy to:- The Station House Officer, Eravipuram Police Station.

Typed by : Vineetha. R
Compared by : Ajitha. R