

SESSIONS DIVISION, KOLLAM

IN THE PRINCIPAL SESSIONS COURT

Present: Smt. M.B. Snehalatha, Prl. Sessions Judge, Kollam
Thursday the 15th day of December, 2022/24th Agrahayana, 1944

Crl. M.C. No. 2457/2022 in

Crime. No. 1466/2022 of Pathanapuram Police Station

Petitioners Shahanas @ Shana, Aged. 27 years, S/o.
Shereef, Muthikonam Puthen Veedu
Nadumurukk, Pathirikkal, Pathanapuram, Kollam
District.

By Adv. M. Saju Khan

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

This petition is filed u/s 438 of Cr. P.C having come up for consideration on 15.12.2022 on the same day the court passed the following.

ORDER

Petition under Section 438 Cr.P.C. seeking anticipatory bail.

2. Petitioner is A1 in Crime No. 1466/2022 of Pathanapuram Police Station, registered for the offences punishable under Sections 294(b), 341, 323, 324, 326, 506 and 34 of the Indian Penal Code.

3. Prosecution case is that on 22.11.2022 at around 10 p.m., accused manhandled the brother-in-law and friend of the de-facto complainant. When the de-facto complainant tried to intervene, accused beaten him with a stick causing fracture of 5th metatarsal of right hand.

When the brother of the de-facto complainant tried to take the de-facto complainant to hospital, accused wrongfully restrained him and manhandled him. According to the prosecution, the motive for the incident is the enmity of the accused towards the de-facto complainant for laying complaint against the accused in respect of sale of ganja.

4. Petitioner/A1 would contend that he is innocent and he has no connection with the crime alleged. Petitioner/A1 is a cancer patient and he is a physically weak person and he does not have the strength to beat anyone. Petitioner/A1 is ready to abide any conditions which may be imposed by this Court and he may be enlarged on pre-arrest bail.

5. The learned Public Prosecutor vehemently opposed the application for pre-arrest bail reiterating the prosecution allegations. In the factual report filed by the investigating officer, it has been stated that if the petitioner/A1 is granted pre-arrest bail, he may tamper with the evidence by intimidating and influencing the witnesses. Further, if pre-arrest bail is granted, petitioner/A1 may abscond and thereby the presence of the petitioner/A1 could not be procured at the time of trial.

6. Heard the learned counsel for the petitioner/A1 and the learned Public Prosecutor.

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

8. The materials produced by the prosecution would prima facie reveal the involvement of the petitioner/A1 with the crime alleged. On

a perusal of the materials produced by the prosecution, it is seen that originally the crime was registered for the offences punishable under Sections 294 (b), 341, 323, 324, 506 and 34 of the Indian Penal Code and Section 326 of the Indian Penal Code was subsequently incorporated. Further, it is also seen that though the alleged incident occurred on 22.11.2022, the FIR was registered only on 24.11.2022.

9. It is contended by the petitioner/A1 that he is a cancer patient and undergoing treatment. In order to substantiate the said fact, petitioner produced documents issued from the Regional Cancer Centre, Trivandrum. Regard being had to the entire facts and attending circumstances of the case, this Court is of the view that granting of pre-arrest bail will not cause any impediment in the process of investigation and a fair and full probe can be well ensured by granting pre-arrest bail to the petitioner/A1 by imposing necessary conditions.

Accordingly, this petition for pre-arrest bail stands allowed on the following conditions:

- (1) Petitioner/A1 shall surrender before the Investigating Officer within one week from the date of this order and on such surrender, the investigating officer can interrogate him. In the event of arrest, the investigating officer shall produce the petitioner/A1 before the Jurisdictional Magistrate Court on the date of surrender itself. On such production, the Jurisdictional Magistrate shall release the petitioner/A1 on bail on executing a bond for ₹50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like-sum.

- (2) Petitioner/A1 shall surrender his passport before the Jurisdictional Magistrate Court and if he does not hold a passport, he shall file an affidavit to that effect.
- (3) Petitioner/A1 shall appear before the investigating officer on every Saturday between 10 a.m. and 11 a.m. for a period of three months or till final report is filed whichever is earlier.
- (4) Petitioner/A1 shall co-operate with the investigation and shall made available for interrogation and for the purpose of investigation as and when the investigating officer directed to do so.
- (5) Petitioner/A1 shall not influence or intimidate the witnesses or interfere with the investigation in any manner.
- (6) Petitioner/A1 shall not get involved in any crime while on bail.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open Court on this the 15th day of December, 2022.)

Sd/-
M. B. Snehalatha,
Sessions Judge.

//True Copy//

Sheristadar

Copy to:- 1. Judicial First Class Magistrate Court, Pathanapuram.
2. The Inspector of Police, Pathanapuram Police Station.

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