

IN THE COURT OF SESSION, KOTTAYAM

Present : Sri.Manoj M., Sessions Judge

Saturday, the 1st day of March, 2025
10th Phalguna, 1946

Criminal M.C. No.323/2025

(Crime No.130/2025 of Ramapuram Police Station)

Petitioners :

1. Saji V. Varalikkara, aged 62 years,
S/o.Varkey,
Varalikkara House,
Koodapulam P.O., Ramapuram.
2. Georgy S. Varalikkara, aged 24 years,
S/o.Saji V. Varalikkara,
Varalikkara House,
Koodapulam P.O., Ramapuram.
3. Joel Mathew, aged 34 years,
S/o.Mathew Thomas,
Vattamattathil House,
Vilakkumadom, Poovarani P.O.

By Advocate Sri.Sooraj M. Kartha

Respondents :

1. Kerala State rep. by
Public Prosecutor, Kottayam.
2. Station House Officer,
Ramapuram Police Station.

By Public Prosecutor Sri.Agi Joseph

Petition filed under Section 482 Bharatiya Nagarik
Suraksha Sanhita.

This Crl.M.P. having been finally heard on 27.02.2025 and the Court on 01.03.2025 passed the following :

ORDER

This is an application for anticipatory bail under Sec.482 of the Bharatiya Nagarik Suraksha Sanhita filed by the petitioners / accused Nos.1 to 3 in Crime No.130/2025 of Ramapuram Police Station registered under Secs.309(4), 309(6) and 296(b) of the Bharatiya Nyaya Sanhita.

2. The prosecution case, in brief, is as follows :- The accused Nos.1 to 3 are respectively the father-in-law, brother-in-law and co-brother of the informant and they were on inimical terms, after the marriage between the informant, a Hindu and his wife, Stessy, a Christian, as per the Special Marriage Act in the year 2019. After the birth of a child in the year 2022, the relationship became strained and the informant's wife returned back to her house. Thereafter, the informant had filed a case before the Family Court, Muvattupuzha for restitution of conjugal rights and the informant's wife filed a case before the Family Court, Pala for

dissolution of marriage. The in-laws of the informant are taking every steps to annul the marital relationship between the informant and his wife. On 08.02.2025, at about 09.30 p.m., while the informant was driving his car bearing registration No.KL-67C-6173 and reached the place Areekkara, the informant's car was blocked by a car, in which the petitioners / accused were travelling. When the accused persons shouted at the informant by knocking on the door, he got out. Thereupon, the first accused wrongfully restrained him, the second accused punched him on his head and kicked him down to the ground. Then all the accused persons kicked him and when he got up, the third accused hit him on his head with a mobile phone. When the neighbours came there, the third accused committed robbery of the Samsung S23 Ultra Mobile phone worth Rs.1,20,000/- from the shirt pocket of the informant and also an OPPO Reno 5 Pro mobile phone from the car. Then all the accused persons left the place with the above said mobile phones. In the scuffle, the informant lost the gold chain, weighing three sovereigns worn by him. The accused persons have thus committed the above said offences.

3. The learned counsel for the petitioners contended that during the initial days of the marriage itself, the informant had subjected his wife Stessy with mental and physical cruelty. Unable to endure the cruelty, the wife of the informant returned to her parental house and matrimonial cases are pending before the Family Court, Pala. On 17.08.2024, the informant threatened to kill the first petitioner at the premises of the Family Court, Pala and a criminal case, Crime No.1039/2024 of Pala Police Station is pending. The informant is intentionally making trouble in the life of the petitioners and provokes them. On the date of the alleged incident, while the third petitioner was sick, the other petitioners along with Stessy took him to the K.R. Narayanan Memorial Government Hospital at Uzhavoor and while they were returning, the informant waylaid their vehicle with his car. On seeing his wife, Stessy in the car, the informant abused her in filthy language and there arose a push and pull and during the scuffle, two mobile phones of the informant fell down. Both these mobile phones were taken by Stessy, the wife of the informant and the petitioners went to Ramapuram Police Station and handed over the mobile

phones to the police. The informant has cooked up a false case against the petitioners. Moreover, both mobile phones are in the custody of Ramapuram Police. The petitioners have no criminal antecedents and their custodial interrogation is not at all necessary.

4. The Investigating Officer filed report vehemently opposing the bail application on the ground that if pre-arrest bail is granted to the petitioners, they may intimidate the informant and influence the witnesses, the mobile phone used by the third accused to assault the informant and the car in which the accused were travelling are to be recovered.

5. The learned Public Prosecutor vehemently opposed granting pre-arrest bail to the petitioners.

6. The Case Diary was produced by the Investigating Officer. I have gone through the report filed by the Investigating Officer. At the outset, it is to be noticed that even according to the informant, matrimonial disputes are pending between him and his wife Stessy. Accused Nos.1 to 3 are the in-laws and co-brother of the informant. The parties were having a strained relationship, after the marriage

between the informant and the daughter of the first petitioner. The mobile phones, which were allegedly robbed from the informant were recovered from the house of the first petitioner on 12.02.2025. It appears that the informant has not sustained any serious injury. The wound certificate is not produced along with the C.D. or report.

7. The Hon'ble Supreme Court in ***Sushila Aggarwal and Others v. State (NCT of Delhi) and Another***, 2020 (1) KHC 663 : (2020) 5 SCC 1 : 2020 (1) KLD 235 : 2020 (1) KLT 545 : ILR 2020 (1) Ker. 517 : AIR 2020 SC 831 : 2020 CriLJ 1590 : 2020 (2) SCALE 772, has laid down the following guidelines relating to consideration of anticipatory bail applications by the courts.

"92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the Court.

92.5. Anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge - sheet till end of trial.

92.6. An order of anticipatory bail should not be "blanket" in the sense that it should not enable the accused to commit further offences and claim relief of indefinite protection from arrest. It should be confined to the offence or incident, for which apprehension of arrest is sought, in relation to a specific incident. It cannot operate in respect of a future incident that involves commission of an offence.

92.7. An order of anticipatory bail does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the person who seeks and is granted pre - arrest bail.

*92.8. The observations in **Sibbia** regarding "limited custody" or "deemed custody" to facilitate the requirements of the investigative authority, would be sufficient for the purpose of fulfilling the provisions of S.27, in the event of recovery of an article, or discovery of a fact, which is relatable to a statement made during such event (i.e. deemed custody). In such event, there is no question (or*

necessity) of asking the accused to separately surrender and seek regular bail."

8. Considering the prosecution records and the facts and circumstances of the case that the parties were having a strained relationship, it is found that the custodial interrogation of the petitioners is not necessary for the purpose of investigation and anticipatory bail can be granted to them, by imposing conditions.

9. In the result, this application is allowed. Anticipatory bail is granted to the petitioners / accused Nos.1 to 3 on the following conditions :-

- (1) The petitioners shall surrender before the Investigating Officer on 05.03.2025 at 10 a.m for interrogation.
- (2) The petitioners can be interrogated for two days i.e., on 05.03.2025 and 06.03.2025 from 10 a.m. till 4 p.m., if required by the Investigating Officer. The petitioners shall be deemed to be under custody during the said period for facilitating the requirements of investigation.

- (3) If the Investigating Officer intends to arrest the petitioners, then they shall be released on bail on the petitioners executing bail bonds for Rs.50,000/- (Rupees Fifty Thousand only) each, with two solvent sureties each for the like sum before the Investigating Officer.
- (4) Petitioners shall appear before the Investigating Officer as and when called for.
- (5) Petitioners shall not tamper with the evidence or intimidate or influence the witnesses.
- (6) Petitioners shall not leave the State of Kerala without prior permission of the jurisdictional Court and shall co-operate with the investigation.
- (7) Violation of any of the conditions stipulated above would result in the cancellation of this Order granting pre-arrest bail.

Dictated to the Confdl. Asst., transcribed and typed by her, corrected by me and pronounced in open Court, on this the 1st day of March, 2025.

Sd/-
Manoj M.
Sessions Judge

//True Copy//

By order

Copied by:
Compared by:

Sd/-
Sheristadar

**Copy of ORDER in
Crl. M.C. No.323/2025
Dated : 01.03.2024**