

IN THE COURT OF THE ADDL. SESSIONS JUDGE-II, KOLLAM.

Present: Sri. Roy Varghese, Addl. Sessions Judge-II, Kollam.

On Saturday, the 3rd day of September, 2022/ 12th Bhadra, 1944

Crl. M.C. No. 1693/2022

Crime No.877/2022 of Pathanapuram Police Station.

Petitioner : Shajahan. A, Aged 53 years, S/o.Abdul Rahman,
Anas Manzil, Mancode.P.O, Pathanapuram,
Kollam . (A2)

By Adv. Sri.B.Shamnad

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

Read the Crl.MC.No.1693/2022 put in by the advocate for the petitioner praying to enlarge the petitioner on bail U/s 438 CrPC.

Heard, perused the records and passed the following:-

ORDER

This is an application for anticipatory bail filed by the 2nd accused u/S. 438 of Cr.P.C. charged with offences punishable u/Ss. 447, 506(ii), 324, 326, 294(b) & 308 r/w Sec.34 of IPC in the Crime No.877/2022 of Pathanapuram police station.

2). The prosecution allegation is that on 17-07-2022 at 10.45 p.m (night), in furtherance of the common intention shared among the accused persons 1 to 3, while the 1st accused criminal trespassed into the house of the defacto complainant situated at Oripuram colony in Pathanapuram Village and hurled obscenities criminally intimidated him, the other accused persons came there and the 3rd accused hit on his head with twig and the 2nd accused inflicted

injuries on his shoulder and right knee with a sword and the 1st accused attempted to stab him, in an attempt to cause his death, thereby the accused persons are alleged to have committed the above mentioned offences. The 1st accused was arrested produced before the Judicial First Class Magistrate's Court, Pathanapuram and remanded. The petitioner/ 2nd accused not arrested.

3). Apprehending arrest the 2nd accused seeking pre-arrest bail, submitting that the major part of the investigation is almost completed and his custody is not needed. In fact, the petitioner intervened as a mediator in a dispute among the defacto complainant and her neighbours. He was falsely implicated in the crime. He is innocent of the allegations levelled against him and it would be revealed on trial. It is also undertaken that he is willing to abide by any conditions stipulated.

4). The learned Public Prosecutor submitted a report opposing the bail application stating that the petitioner may abscond from the process of the Court if bail granted. There is also possibility of influencing the witnesses and tampering with the evidence. He has committed series offences and sought for dismissal of the petition.

5). Heard both sides and perused the records. A perusal of the

report reveals the 1st accused was arrested. The *thondi* items recovered and seized. The investigation is in progress.

6). The custody of the petitioner not necessary for the trial of the case. A person cannot be kept in judicial custody as a matter of punishment, before trial. Accused persons cannot be kept in custody as a matter of punishment without full trial. All the allegations leveled are subject to judicial adjudication.

7). In this case the main allegations are against the 1st accused that the defacto complainant was hit with a twig causing injuries. The petitioner/ 2nd accused is not alleged to have inflicted injuries on him. He has no criminal antecedence.

8). The objection by the prosecution that the petitioner may repeat the offence, abscond and attempt to tamper with the evidence are just and reasonable. However, strict conditions can be imposed for ensuring his attendance and presence during trial. Accordingly, anticipatory bail can be granted on conditions.

In the result, this application for anticipatory bail is allowed. The petitioner/ 2nd accused shall appear before the Investigating Officer within ten days from today and shall co-operate with the investigation of the case, including for interrogation, recovery or seizure as per the discretions of the Investigating Officer.

(i) After recording their arrest, in compliance of the guidelines and Rules, the petitioner/ 2nd accused shall be produced before the Judicial First Class Magistrate's Court, Pathanapuram or any other Magistrate concerned.

(ii) The Jurisdictional Magistrate shall release the petitioner/ 2nd accused on bail on executing bonds for ₹.50,000/-, with two solvent sureties each for the like sum to the satisfaction of the Magistrate concerned. This bail is granted subject to the following conditions:

(iii). The petitioner/ 2nd accused shall appear before the investigating officer as and when required.

(iv) The petitioner shall not influence the witnesses or tamper with evidences of the case; and

(v) The petitioner shall not involve in any similar offences while on bail.

Bail granted accordingly.

(Dictated to the Confidential Assistant, typewritten by her in the computer, corrected and pronounced in the Open Court by me on the 3rd day of September, 2022).

Sd/-
Roy Varghese
Addl. Sessions Judge-II

//True copy//

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Copy to : 1) The JFMC, Pathanapuram.
2) The Inspector of Police, Pathanapuram.

Typed by : Asha Joseph
Compared by : Bindhu.R