

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE, NEDUMANGAD.
 PRESENT : SMT. RAJASREE.C.R., ASST. SESSIONS JUDGE
 Friday 02nd August, 2024/ 11th Sravana 1946

CRIMINAL M.P.No.107/2024 IN SC.No.684/2024

Petitioner/Accused : Radhakrishnan, S/o Gopalan,
 Padinjattinkara Putheen Veedu, 4 cent
 Colony, Sooryakanthi, Thenoor Village.

By Adv. : Adv. Smt. Sheeja Sulfikkar

Respondent : State represented by Inspector of Police,
 Palode Police Station.(Crime No.02/2024)

By Advocate : Sri. Kishore Raj. K., A.P.P.

This petition having been finally heard on 24/07/2024 and the court on 02/08/2024 passed the following.

ORDER

This application filed u/s 439 of Cr.P.C by the accused seeking bail.

2. **Prosecution case in brief is as follows:** The accused, owing to prior animosity towards the complainant, his wife, at 5 p.m on 31.12.2023 near Suryakanthi junction, poured acid on the face of the complainant and stabbed on her back and on her face using a knife, with the intention of causing her death and thereby attempted to kill her and thereby committed the offences punishable under sections 324, 326A & 307 of the Indian Penal Code.

3. The accused was remanded to judicial custody on 01.01.2024. Since then, he is in judicial custody. As he is financially incapable to depute a lawyer of his own choice, legal aid counsel was appointed for him. The accused himself sent an application seeking bail.

4. Heard the learned counsel for the accused and the learned Legal Aid Counsel.

5. Earlier, the accused filed CMP.82/2024 seeking bail and the same was dismissed. While considering that application, the investigating officer, Inspector of Police, Palode Police Station, filed report disclosing that the accused poured acid on the complainant and stabbed her due to the animosity that she was not willing to sign an insurance claim and also he doubted that she has an affair with some other person. The complainant and the accused were leaving separately for the last 15 years. According to the prosecution, when the complainant jumped from the chair when he poured acid on her, he shouted stating the he would kill her and stabbed her. He stabbed on her face causing deep injury. It was also reported that if the accused is released on bail, there is every likelihood that he would cause harm to the complainant and also there is every chance of tampering the evidence and influencing the witnesses.

6. Points that arose for consideration are:

Is the petitioner entitled to get bail under section 439 of Cr.P.C?

7. **Point no.1:-** The allegation of the prosecution is that the accused attempted to kill the complainant, his wife by causing a stab injury on her back and on her face with a knife and poured acid on her face. The accused is in judicial custody since 01.01.2024. The case was committed by Judicial First Class Magistrate for the Trial of Forest Offences on

21.03.2024 and thereafter, the case was made over to this Court. Further, production warrant was issued from this Court for the production of the accused on 18.05.2024. On 18.05.2024, when the accused was produced before this court he informed that he is financially incapable to depute a lawyer of his own choice. Thus, the matter was addressed to the Taluk Legal Services Committee and a legal aid counsel was deputed.

8. The apprehension of the prosecution is that if the accused is released on bail, he is likely to influence the witness and tamper with the evidence. Here, the complainant is the wife of the accused. From the prosecution case itself it is evident that the complainant and accused were living separately for the last 15 years. It was argued by the learned counsel for the defence that the trial has not been commenced in this case and considering the period of incarceration, the accused is entitled for bail. In the case of **Jaseer.S.M v. State of Kerala, 2024 KHC 13** it was held that merely because accused had undergone a certain period of incarceration by itself would not entitled the accused to be released on bail, nor the fact that trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the accused on bail when the gravity of the offence alleged is severe. In this particular case, the accused poured acid on his wife and stabbed on her back with a knife to kill her. The injured as well as the occurrence witnesses are not examined. Charge has been framed against the accused. Considering the

fact that there is previous animosity between the complainant and the accused, I am of the view that releasing him on bail at this stage will definitely affect the evidence in this case. Having considered the fact that trial has not been commenced, releasing the accused on bail will create difficult situations to the complainant as she is a material witness in this case. Moreover, the accused has used a sharp weapon to inflict stab injury on the injured. Considering the relationship between the accused and complainant, taking into account the weapon used to inflict injury and the stage of this case and relying on the principles laid down in Jaseer's case, I am not inclined to allow this application. Thus this point is found against the accused.

In the result, this bail application is dismissed. Issue free copy to the accused.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 2nd day of August, 2024).

Sd/-
RAJASREE.C.R.
ASSISTANT SESSIONS JUDGE

Appendix:- NIL

Id/-
ASSISTANT SESSIONS JUDGE

//True copy//

ASSISTANT SESSIONS JUDGE

Typed by:D.R.
Comp.by:

