

SESSIONS DIVISION, THIRUVANANTHAPURAM
IN THE COURT OF THE SESSIONS JUDGE,
THIRUVANANTHAPURAM

PRESENT: SRI. PRASUN MOHAN, ADDL. SESSIONS JUDGE-VII

Monday, the 23rd day of December, 2024/ 2nd day of Pousha, 1946

CRIMINAL MC.No.3474/2024

(Crime No.1148/2024 of Nedumangad Police Station)

Petitioner/Accused No.1 :-

Syam V. Das,
Sivodayam, Pallivetta, Panacode,
Tholicode, Thiruvananthapuram

By Advocate:-Aneesh.B

Respondent:-

Nedumangad Police Station

By Additional Public Prosecutor Smt. Veni.K

This Crl.MC came up for hearing on 19.12.2024 and the court on 23.12.2024 passed the following:-

ORDER

1. This is an application filed by the petitioner/accused No.1 u/s.482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Hereinafter referred as BNSS) for anticipatory bail.

2. **Gist of the averments in the petition is as follows:-** The petitioner is the first accused in Crime No.1148/2024 of Nedumangadu Police Station of an offence punishable u/s.85 of BNS. The petitioner is ready to abide by any

condition and he may be enlarged on bail.

3. **Crux of the averments in prosecution case is summarized as**

follows:- The first accused married the complainant on 13/05/2011 at Sivagiri Mutt, Varkala as per religious right and customs and both of them resided together as husband and wife in a rented house near Kailrali School, Nedumangadu and SJ Bhavan, Kurakkode. While so, the first accused misappropriated 15 sovereigns of gold ornaments of complainant for own use. The first accused took a loan of Rs.8,00,000/- in the name of complainant and utilized that money for his own use. The accused demanded complainant to bring more dowry and thereby mentally and physically tortured the complainant. When the first accused working abroad, came to the native place, the complainant went to see him at 10.00 am on 08/10/2024 at the house of second accused at Nedumpara, the accused Nos. 1 and 2 physically manhandled complainant at that place. Hence, the accused are alleged to have committed an offence punishable u/s.85 of BNS.

4. Both sides are heard and they would urge in tune with those contentions in the bail application and the prosecution case respectively.

5. The learned prosecutor produced the report of the Sub Inspector of Police, Nedumangadu Police Station to oppose the bail application.

6. Having perused the report of the Sub Inspector of Police and after

hearing the learned counsel for the petitioner and Public Prosecutor, it is revealed that the nature of offences alleged against the petitioner are punishable with imprisonment upto 7 years and therefore, it is just and proper in the interests of justice to apply the dictum of the Hon'ble Supreme Court in **2014(8) SCC 273, Arnesh Kumar V. State of Bihar** to the facts in the bail application.

7. As per wound certificate, it is prima facie noticed about a tenderness and contusion on the chest reported therein and the same are minor in nature. Nature and gravity of the offence alleged against the petitioner ought to reveal that the same is not sufficient enough to place the petitioner under custody and provide a custodial interrogation. On considering that the above dispute is the byproduct of marital discord between the spouses, it deems appropriate to invoke the discretion of pre-arrest bail in favour of the petitioner subject to conditions. Apart from that, the limited interrogation of the petitioner/accused No.1 as contemplated under the dictum of the **Hon'ble Supreme Court in Sushila Agarwal v. State (NCT of Delhi), 2020 SCC online SC 98**, is sufficient to the facts of the case. Based on above discussions, the discretion of pre-arrest bail can be exercised in favour of the petitioner subject to above observation.

8. As far as a court considering a pre-arrest bail application is concerned,

the dictum of the Hon'ble Supreme Court in **AIR 1980 SC 1632, Gurubaksh Singh Sibbia and Another V. State of Punjab** holds the legal position that appropriate conditions can be imposed under sub section 2 of S.438 of Cr.PC so as to ensure an uninterrupted investigation and the court can even incorporate conditions that in the event of the police, making out a case of a likely discovery u/s.27 of Evidence Act, the person who is granted with an anticipatory bail can be taken into police custody for facilitating such discovery.

9. On applying the above dictum to the facts of the case and after carefully hearing the learned counsel for the petitioner and public prosecutor, it is just and proper to allow the application to grant pre-arrest bail to the petitioner on conditions to co-operate with this investigation.

10. In the result, the Criminal MC is allowed subject to the conditions as follows:-

- (i) The petitioner/accused No.1 shall surrender and appear before the Investigating Officer on 27.12.2024 at 9.00 am and subject himself for interrogation from 09.00 am to 06.00 pm, if required by the Investigating Officer.

(ii) The petitioner/accused No.1 shall be deemed to be under the limited custody of the Investigating Officer during the aforesaid period for facilitating the requirements of investigation.

(iii) The petitioner/accused No.1 shall further co-operate with the Investigating Officer for facilitating the investigation as and when required by the Investigating Officer.

(iv) The petitioner/accused No.1 shall not commit any similar offence while on bail.

(v) The petitioner/accused No.1 shall not do any acts to directly or indirectly make any inducement, threat or promise to any witnesses or any other persons acquainted with the facts of the case so as to dissuade the said witness or tamper with the evidence.

(vi) The petitioner/accused No.1 shall not enter the house of complainant and commit any acts of domestic violence towards the complainant either in her house or at her place of employment.

(vii) In compliance with conditions No.(i) to (iii), the Investigating Officer is at liberty to interrogate the petitioner/accused No.1 and if required, take appropriate steps for recovery as provided under law and the 2nd part of this condition will not stand as an embargo in the investigation and interrogation. On completion of such steps required

for interrogation and investigation and in the event of any arrest, the petitioner/accused No.1 shall be released on bail on executing the bond for a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** together with two solvent sureties for the like sum.

(viii). The petitioner shall not leave India without the permission of the jurisdictional Magistrate.

(ix). In case of any violation of bail conditions or change in circumstances, the Investigating Officer or the petitioner/accused No.1 are at liberty to approach the Jurisdictional Magistrate/Court and seek for modification/cancellation of bail conditions and the said Magistrate is authorised to pass appropriate orders as per law.

(Dictated to the Confidential Assistant, typed by her, corrected by me and pronounced in Open Court on this, the 23rd day of December, 2024.)

Sd/-

PRASUN MOHAN

Additional Sessions Judge -VII

(Copies-4)

(True Copy)

(By Order)

Typed by : Soumya

Compared by :Rifa

F.C.S.:

SHERISTADAR

**Copy of Order in
Criminal MC.3474/2024
Dated:23/12/2024**
