

IN THE COURT OF SESSION, ERNAKULAM DIVISION

Present:-

Smt. Honey M. Varghese, Sessions Judge

Wednesday, the 25th day of January, 2023/ 5th Magha, 1944

Crl. M.C. No.139 of 2023

(Crime No.0928/2022 of Aluva Police Station)

Petitioner/Accused:-

Muneer.M.M, Aged 40 years, S/o Muhammed M.M, residing at
Mannarath House, Erumathala PO, Keezhmadu Village, Aluva Taluk,
Ernakulam District, Pin-683112

By Advs.Ramlal V.R and Shibas Ibrahim

Respondents/Complainants:-

1. Station House Officer, Aluva Police Station, Ernakulam District.
2. Public Prosecutor, Prosecutor's Office, District Court Complex,
Ernakulam District.

By Public Prosecutor Sri. Manoj. G. Krishnan.

This petition filed u/s.438 of Cr.P.C., praying this Court to grant anticipatory bail to the petitioner.

This petition coming on for hearing on 20.01.2023 and the court on 25.01.2023, passed the following:-

ORDER

This petition is filed u/s 438 of Cr.PC by the accused in crime No. 928/22 of Aluva East Police station registered for the offence u/ss.341, 323 and 354 IPC.

2. The prosecution case in brief is that the husband of the defacto complainant had borrowed money from her brother, but, failed to repay it. On account of this enmity, the accused with an intention to inflict bodily injuries to the defacto complainant, on 8/07/2022 at about 5.00 p.m beat on the left cheek of

the defacto complainant using his hands and also caught hold of her left hand and thereby, restrained her. He further slapped on her left shoulder and kicked on her abdomen. He lifted the legs of the defacto complainant and at that time her dresses were misplaced and accordingly, the petitioner outraged the modesty of the defacto complainant and thus committed the offences alleged against him.

3. The counsel for the petitioner submitted that the petitioner and the defacto complainant are brother and sister. There was an altercation and scuffle between the petitioner with his sister on 8/07/2022 at 5.00 p.m at the residence of their elder brother Mr. Musthafa. All the family members were assembled there. The defacto complainant obtained ₹8lakhs from the petitioner as loan. The petitioner demanded the repayment and she started to quarrel with him. This led to altercation and scuffle. The entire allegations are false and the petitioner never intended to outrage the modesty of the defacto complainant. This case was foisted falsely so as to escape from the liability of the payment of ₹8lakhs to the petitioner. The petitioner has no criminal antecedents .

4. Learned Public Prosecutor objected the bail application. If bail is granted to the petitioner, he will influence and intimidate the witnesses and hence, prayed to dismiss the petition.

5. Heard Both sides and perused the records.

6. The prosecution allegation is that the petitioner outraged the modesty of the defacto complainant on 08/07/2022 at about 5.00 p.m and also fisted and slapped on her cheeks and shoulders and thereby, she sustained injury. The

counsel for the petitioner refuted the contentions of the prosecution stating that the defacto complainant in her capacity as the sister of the petitioner borrowed ₹8 lakhs from the petitioner and the petitioner demanded back the amount and there was an altercation happened in connection with this dispute and this led to the filing of this case.

7. I have perused the CD and report. The petitioner herein is none other than the brother of the defacto complainant. It is to be noted that the place of occurrence is the residence of the elder brother of the defacto complainant and the petitioner herein. The motive alleged in this case is also that the husband of the defacto complainant obtained money from the petitioner and failed to repay it. On account of this enmity, the petitioner herein committed the alleged offence against the defacto complainant. It is alleged that there was a dispute in connection with the so called borrowal and repayment of the amount and the petitioner during the course of said altercation outraged the modesty and inflicted bodily injuries by slapping on her cheek. One and only non bailable offence involved in this case is the offence u/s. 354 of IPC. The report would show that the so called outraging modesty of the defacto complainant was allegedly happened during the course of scuffle between them. Having regard to the nature of allegations coupled with the relation of the parties, I hold that the custodial interrogation of the petitioner is not required in this case and hence, he is entitled for bail.

In the result, the petition is allowed on the following conditions:

- (1) The petitioner shall be released on bail in the event of arrest on executing a bond for ₹50,000/- with two solvent sureties for the like sum each to the satisfaction of the Investigating officer/arresting officer as the case may be.
- (2) The petitioner shall appear before the investigating officer for the purpose of interrogation as and when required by him in connection with the above crime, till the final report is filed.
- (3) The petitioner shall not intimidate or influence the witnesses or interfere with the investigation.
- (4) The petitioner shall not involve in the commission of any other crime during the bail period.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 25th day of January, 2023.

Sd/-

Honey M.Varghese
Sessions Judge

Sk/
comp. By:

CrI. M.C. No.139 of 2023
Order dated 25.01.2023