

IN THE COURT OF THE SESSIONS JUDGE, ALAPPUZHA

Present: Sri. Jobin Sebastian, Sessions Judge

Saturday the 15th day of October, 2022

Crl. M.P. No. 4117/2022

(Crime No. 611/2022 of Mannar Police Station)

Petitioner: Binu Thomas, 40 years, S/o. Thomas K., Kandathil Puthenveedu,
Chennithala P.O., Thripperunthura, Mavelikara.
By Adv. Omar Salim

Respondent: State of Kerala, rep.by the SHO, Mannar Police Station.
Represented by the Public Prosecutor, Alappuzha.

This petition having been heard on 14.10.2022 and the court on 15.10.2022 passed the following:

ORDER

This petition for anticipatory bail has been filed by the first accused in Crime No.611/2022 of Mannar Police Station registered alleging commission of offences punishable under Sections 447, 323, 324, 325 and 308 read with 34 of IPC.

2. The prosecution allegation is that, on 05.10.2022 at 6.45 p.m., the accused trespassed into the labour camp of the defacto complainant where the migrant labourers are residing. On seeing the same, when the defacto complainant attempted to take the photographs of the accused, first accused attempted to snatch the mobile phone of the defacto complainant and the second accused twisted the right hand of the defacto complainant. Moreover, the first accused kicked the defacto complainant down and beat on his head using a chair. Hence the accused are alleged to have committed the offences mentioned above.

3. I heard both sides and perused the case diary.

4. The learned counsel for the petitioner submitted that, the petitioner is totally innocent of the allegations levelled against him. According to the petitioner's counsel, the petitioner herein is the actual injured. The petitioner was brutally attacked by the defacto complainant and his migrant labourers. In the said incident the petitioner sustained fracture to his jaw bone and several injuries

on his face, eye and forehead. Now the petitioner is under treatment. In connection with the said incident, a case was registered against the defacto complainant in this case and three others as Crime No:612/2022 of Mannar Police Station alleging commission of offences punishable u/ss.323, 341, 326 and 308 r/w 34 of IPC. The petitioner is an ex-military personnel. The petitioner is not having any criminal antecedents and is a law abiding citizen. The petitioner is ready to abide by any condition imposed by this court in the event of granting pre-arrest bail.

5. The learned Public Prosecutor opposed the application.

6. From a perusal of the case diary, it is discernible that, the incident in this case was occurred when the accused trespassed into the labour camp of the defacto complainant and while the defacto complainant objected the same. There is specific allegation that, the second accused twisted the hand of the defacto complainant causing fracture. Moreover, it is alleged that, the petitioner had beaten the defacto complainant using a chair. From the copy of the FIR in Cr.No:612/2022 produced from the side of the petitioner, it is evident that a counter case has been registered against the defacto complainant and others alleging commission of offences punishable u/ss.341, 323, 326, 308 r/w 34 of IPC. Any how, the registration of the said counter case is not a reason to justify the criminal act alleged against the petitioner. However, when there is a case and counter, it is highly necessary to conduct a meticulous investigation to find out how the incident started, developed and ended. In the case at hand, the only non bailable offence alleged is u/s.308 of IPC. Though it is alleged that, the defacto complainant had sustained fracture on his right hand, the said injury is allegedly occurred while the second accused twisted the hand of the defacto complainant. The said injury is not inflicted by using any weapon. Therefore, with respect to the same, an offence u/s.325 of IPC would attract, which is a bailable one. I do admit that there is specific allegation that, the petitioner had beaten the defacto complainant using a chair. The said chair had already been recovered. The nature of the allegation indicates that custodial interrogation of the petitioner is not necessary for the progress of the investigation. Similarly, registration of a case against the defacto complainant alleging commission

of offence u/s.326 of IPC with respect to the same incident also persuade me to take a lenient view while considering the present petition. Considering all these aspects, I am inclined grant to pre-arrest bail to the petitioner, on conditions.

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

1. The petitioner shall be released on bail in the event of his arrest in connection with the above crime, on his execution of bond for ₹50,000/-, with two solvent sureties each for the like sum to the satisfaction of the Investigating Officer.
2. The petitioner shall appear before the Investigating Officer as and when required and shall co-operate with the investigation.
3. The petitioner shall not intimidate or influence the witnesses or tamper with the evidence.
4. The petitioner shall not commit any offence while on bail.

(Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open Court, this the 15th day of October, 2022).

Sd/-
SESSIONS JUDGE
ALAPPUZHA