

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

THURSDAY, THE 23<sup>RD</sup> DAY OF MARCH 2023 / 2ND CHAITHRA, 1945

BAIL APPL. NO. 1105 OF 2023

AGAINST THE ORDER/JUDGMENTCR 3/2023 OF JUDICIAL MAGISTRATE OF FIRST  
CLASS , ALATHUR

PETITIONER/ACCUSED:

THOMAS ANTONY,  
AGED 35 YEARS,  
SON OF LATE ANTONY, MANNUKKARA HOUSE, OLIMKADAVU P.O.,  
KADAPARA, VANDAZHY AMSOM, ALATHUR TALUK, PALAKKAD  
DISTRICT, PIN - 678 706.

BY ADVS.  
S.EASWARAN  
K.V.RAJESWARI  
P.MURALEEDHARAN (IRIMPANAM)

RESPONDENTS/STATE & DE FACTO COMPLAINANT:

- 1 STATE, REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT KERALA, ERNAKULAM, KOCHI, PIN - 682 031.
- 2 RAJANI,  
WIFE OF RAVINDRAN, RESIDING AT KOMPANAL HOUSE, KADAPARA,  
OLINKADAV P.O., MANGALAM DAM, ALATHUR TALUK, PALAKKAD,  
PIN - 678 706.

BY ADVS.  
P.R.VENKATESH  
LAKSHMI MEENAKSHI P.R. (K/003518/2022)

SRI.M.P.PRASANTH -PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
23.03.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ORDER**

The petitioner is the accused in Crime No.3 of 2023 of the Mangalam Dam Police Station. The offences alleged against the petitioner are under sections 324, 341, 354 and 447 of the Indian Penal Code.

2. The allegation against the petitioner is that, on 28.12.2022 at about 16:00 hours, the accused assaulted the *de facto* complainant with a wooden stick and touched her body after trespassing into the property of the *de facto* complainant. It is also alleged that during the said incident, the dress worn by the *de facto* complainant was torn off, thereby outraging the modesty of the *de facto* complainant. The petitioner submits this application in such circumstances, seeking anticipatory bail.

3. Head Sri.S.Easwaran, learned counsel for the petitioner, Sri.M.P.Prasanth, learned Public Prosecutor for the State and Sri.T.R.Venkitesh, learned counsel for the 2<sup>nd</sup> respondent/de facto complainant.

4. The specific contention put forward by the learned counsel for the petitioner is that some civil disputes are pending between the parties. The petitioner's father has also obtained a

decree in his favour in O.S.No.521 of 1994 from the Addl. Subordinate Judge-V, Palakkad, in respect of the property which is in dispute. Moreover, his possession over the said property is also recognized by this court in the judgment in WP(C).No.18607 of 2014 (Annexure A9). However, the *de facto* complainant attempted to trespass into the property to take the yield from the said property. When the said attempt was prevented, the incident, which is the subject matter of this case, happened. According to the learned counsel for the petitioner, this is a falsely foisted case, and under any circumstances, no culpability can be attributed against him. The delay in reporting the matter to the police was highlighted by the petitioner, as the crime was registered only on 3.01.2023, whereas the incident occurred on 28.12.2023. This would indicate that the same was only an afterthought, contends the learned counsel.

5. On the other hand, the learned Public Prosecutor and the learned counsel for the *de facto* complainant would oppose the aforesaid contentions. According to them, there are specific allegations against the petitioner herein for committing the offence

of outraging the modesty, and therefore, anticipatory bail cannot be granted.

6. I have gone through the records and heard the contentions of both sides. It is discernible from the records that several litigations are pending between the parties in respect of a piece of land. On going through the First Information Statement, it appears that an exchange of words has occurred between the parties on the date of occurrence, and ultimately this got escalated into a scuffle. Even though it is alleged that the petitioner tore the dress worn by the *de facto* complainant from the materials available on record, it appears that there was no sexual intention behind the same, and it occurred during the course of the scuffle. However, no conclusion can be reached concerning the same, at this stage, as the investigation is now in progress. There is a delay of 6 days in filing a complaint before the police, and in the fact and circumstances of the case, that is also a relevant aspect. Anyhow, considering the nature of the allegations raised and the pending litigation between the parties, I am of the view that denial of anticipatory bail may not be proper. In such circumstances, an order ensuring the cooperation of the petitioner to the

investigation is to be passed, and this would serve the purpose. Accordingly, this application is disposed of with the following conditions:

- (i) The petitioner shall surrender before the Investigating officer, within a period of two weeks from today, for subjecting himself to interrogation.
- (ii) After interrogation, the petitioner shall be released on bail, on the very same day of surrender upon the petitioner executing a bond for Rs 1,00,000/- (Rupees one lakh only) with two sureties each for the like sum, to the satisfaction of the investigating officer
- (iii) The petitioner shall fully cooperate with the investigation, including subjecting himself to the deemed police custody for the purpose of recovery, if any, as and when demanded.
- (iv) The petitioner shall appear before the investigating officer between 10.00 a.m and 11.00 a.m. on alternate Wednesdays until the filing of the final report.
- (v) The petitioner shall also appear before the investigating officer as and when required.
- (vi) The petitioner shall not commit any offence of similar nature while on bail.
- (vii) The petitioner shall not make any attempt to contact any of the prosecution witnesses,

directly or through any other person, or in any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

(viii) The petitioner shall not leave the State of Kerala without the permission of the trial Court.

In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation of bail, if any, and pass appropriate orders in accordance with the law.

Sd/-

**ZIYAD RAHMAN A.A.**  
**JUDGE**

DG/23.3.23

APPENDIX OF BAIL APPL. 1105/2023

## PETITIONER ANNEXURES

AnnexureA1	COPY OF JUDGMENT DATED 9-11-2012 IN OS NO 521 OF 1994 SUBORDINATE JUDG (ADDL) PALAKKAD
Annexure A2	COPY OF THE DECREE IN OS NO 521 OF 1994 ON THE FILES OF SUBORDINATE JUDGE (ADDL) PALAKKAD
Annexure A3	COPY OF THE COMPLAINT DATED 29-12-2022 ALONG WITH ACKNOWLEDGMENT BEFORE SUB INSPECTOR OF POLICE MANGALAM DAM POLICE STATION
Annexure A4	COPY OF THE COMPLAINT DATED 2-1-2023 ALONG WITH ACKNOWLEDGMENT SUBMITTED BEFORE THE SUPERINTENDENT OF POLICE PALAKKAD
AnnexureA5	COPY OF THE COMPLAINT SUBMITTED BEFORE HON'BLE CHIEF MINISTER OF KERALA DATED 20-12-2022
Annexure A6	COPY OF THE REPLY DATED 29-12-2022 ISSUED BY SUB INSPECTOR OF POLICE MANGALAM DAM POLICE STATION
AnnexureA7	COPY OF THE FIR IN CRIME NO 3 OF 2023 BEFORE MANGALAM DAM POLICE STATION
AnnexureA8	COPY OF THE STATEMENT GIVEN BY THE 2ND RESPONDENT BEFORE THE MANGALAM DAM POLICE STATION
Annexure A9	COPY OF THE JUDGMENT DATED 22-9-2014 IN WP 18607 OF 2014 ON THE FILES OF THIS HON'BLE COURT