

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

FRIDAY, THE 7TH DAY OF JULY 2023 / 16TH ASHADHA, 1945

BAIL APPL. NO. 1818 OF 2023

Crime No.230 of 2022 of Sasthamcottah Police Station,
Kollam District

PETITIONER:

ATHUL RAJ
AGED 25 YEARS
S/O. K. RAJAN, PEEDIKAYIL AYYATHU VEEDU,
PALLISSERIKKAL, SASTHAMCOTTA VILLAGE, KUNNATHOOR
THALUK, KOLLAM DISTRICT., PIN - 690521
BY ADV AJITH MURALI

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM., PIN - 682032
- 2 THE STATION HOUSE OFFICER
SASTHAMCOTTA POLICE STATION, SASTHAMCOTTA P.O,
KOLLAM DISTRICT., PIN - 690521

OTHER PRESENT:

SRI.JOBY JOSEPH (PP)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
07.07.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

VIJU ABRAHAM, J.

B.A. No.1818 of 2023

Dated this the 7th day of July, 2023

ORDER

This is an application for anticipatory bail.

2. Petitioner is accused No.2 in Crime No.230 of 2022 of Sasthamcottah Police Station, Kollam District registered alleging commission of offences punishable under Sections 143, 147, 323, 324, 325 and 308 read with Section 149 of the Indian Penal Code.

3. The prosecution case is that on 15.02.2022 at 9.30 P.M due to the enmity towards the defacto complainant and his friend in connection with the elections held at D.B. College, Sasthamcotta, the 1st accused attempted to assault the defacto complainant with a free-wheel and he evaded the said attack. The 3rd and 4th accused assaulted the friend of defacto complainant named Jishnu Menon with a free-wheel causing injury on his head and forehead. It is further alleged that the 5th accused assaulted one Ananthu with his hands causing injury on the nasal bone.

4. Petitioner submits that he has been falsely implicated in the above-said crime. Petitioner further submits that even though he has moved applications for anticipatory bail earlier before this

Court, the same were rejected as per Annexures A2 and A4 orders, since certain material facts could not be placed before this Court at that point of time. It is contended that in fact serious overtact is alleged against the 1st accused and he is now released on bail. Petitioner, an engineer, was on the way from his duty from Chavara K.M.M.L., interfered in the incident to avoid the clash between the two groups. Moreover there is no specific allegation against the petitioner alleging any assault against the defacto complainant or others.

5. The bail applications submitted by the petitioner were rejected as per Annexures A2 and A4 orders. While considering the bail applications earlier, the learned Public Prosecutor upon instructions submitted that the petitioner is involved in two other cases, Crime No.221 of 2021 of Sasthamcotta Police Station alleging commission of offences punishable under Sections 294(b), 143, 147, 148, 323, 324 and 308 read with Section 149 IPC and Crime No.1546 of 2021, under Sections 143, 147, 341, 294(b) and 323 read with Section 149 IPC. The learned counsel for the petitioner specifically contends that on earlier occasion the bail application was rejected taking note of the criminal antecedents of the petitioner having involved in two crimes. It is also submitted that in respect of Crime No.221/2021 wherein allegations of having

involved in an offence punishable under Section 308 IPC, has been quashed by this Court in Crl.M.C. No.4070/2022. The petitioner further submits that no overtacts are alleged against him.

6. Having regard to the facts and circumstances of the case and considering the nature of the allegations, I am inclined to grant bail to the petitioner subject to stringent conditions. In the result, this application is allowed. It is directed that the petitioner shall surrender before the investigating officer on 14.07.2023, at 11 a.m, and subject himself for interrogation on that day and on any other day/days (in between 9 am and 6 pm) as directed by the investigating officer. The petitioner shall co-operate with the investigation. In the event of arrest in Crime No.230 of 2022 of Sasthamcottah Police Station, Kollam District, he shall be produced before the jurisdictional Court on the very same day and shall be released on bail, subject to the following conditions:-

- (i) Petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like-sum to the satisfaction of the jurisdictional court ;
- (ii) Petitioner shall appear before the investigating officer in Crime No.230 of 2022 of Sasthamcottah Police Station, Kollam District as and when

summoned to do so;

(iii) The petitioner shall not attempt to contact the the *defacto* complainant or interfere with the investigation or to influence or intimidate any witness in Crime No.230 of 2022 of Sasthamcottah Police Station, Kollam District;

(iv) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the investigating officer in Crime No.230 of 2022 of Sasthamcottah Police Station, Kollam District may file an application before the jurisdictional Court, for cancellation of bail.

It is made clear that it is within the power of the police to investigate the matter and if necessary to effect recoveries on the information if any given by the petitioner, even when the petitioner is on bail as per the judgment of the Apex Court in **Sushila Aggarwal and others v. State(NCT of Delhi) and another(2020(1)KHC 663)**.

Sd/-
VIJU ABRAHAM
JUDGE

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