

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ASHOK MENON

WEDNESDAY, THE 04TH DAY OF NOVEMBER 2020 / 13TH KARTHIKA, 1942

Bail Appl..No.6893 OF 2020

CRIME NO.1235/2020 OF MARAYAMUTTAM POLICE STATION ,
Thiruvananthapuram

PETITIONERS/A1-A3:

- 1 SHIBU K
AGED 33 YEARS
PERUMARAM VILA PUTHENVEEDU, THATHIYOOR, MANCHAVILAKOM
PO, NEYYATTINKARA, THIRUVANANTHAPURAM - 695503.
- 2 JOHN BRIGHT
AGED 70 YEARS
PERUMARAM VILA PUTHENVEEDU, THATIYOOR, MANCHAVILAKOM
PO, NEYATTINKARA, PIN - 695503.
- 3 KAMALAM
AGED 60 YEARS
PERUMARAM VILA PUTHENVEEDU, THATHIYOOR, MANCHAVILAKOM
PO, NEYATTINKARA, PIN - 695503.

BY ADVS.
SRI.B.ASHOK SHENOY
SRI.P.S.GIREESH
SRI.RIYAL DEVASSY
SHRI.ANILKUMAR C.R.

RESPONDENT/S:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA
ERNAKULAM - 682031.

R1 BY PUBLIC PROSECUTOR

OTHER PRESENT:

SRI.C.N.PRABHAKARAN SR PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
04.11.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R

Dated this the 4th day of November 2020

APPLICATION FOR ANTICIPATORY BAIL.

The applicants are accused 1 to 3 in Crime No.1235 of 2020 of Marayamuttom Police Station, for having allegedly committed offences punishable under Sections 323, 324 and 379 read with Section 34 Indian Penal Code. The first applicant is the son of applicants 2 and 3.

2. The prosecution case, in brief, is that on 13.8.2020 at about 7.15 p.m., the applicants in furtherance of common intention and enmity towards the de facto complainant on account of his conducting vending fish in front of their house and causing nuisance, allegedly assaulted the de facto complainant with dangerous weapons, like wooden log, and caused hurt to the de facto complainant. During the scuffle the de facto complainant's mobile phone worth Rs.18,000/- slipped down from his pocket and the applicants had allegedly stolen the same.

3. The applicants state that the allegations are not true and that it was the de facto complainant and his friends who had trespassed into the property of the applicants and assaulted the

first applicant in consequence of which the third applicant had filed a complaint before the Station House Officer on the very next day and it is also further stated that there are medical records to show that the first applicant was injured. The documents indicate that the first applicant was taken to Rukmini Memorial Devi Hospital at Vellarada and he had sustained an injury on the right ear/blunt force injury chest. But documents produced by the applicants do not indicate that there was a external injury sustained on the first applicant. The applicants contend that the allegations are all untrue and that therefore, they may be granted pre-arrest bail as they do not have any criminal antecedents.

4. Heard the learned counsel appearing for the applicants and the learned Public Prosecutor.

5. The learned Prosecutor submits that the wooden log used and mobile phone allegedly stolen by the applicants will have to be recovered for that purpose custodial interrogation of the applicants is necessary.

6. After having considered the arguments raised by both sides, I find that the applicants do not have any criminal antecedents. The injury allegedly sustained by the de facto

complainant is not very grievous or serious. The mobile phone was not snatched by the applicants as theft, but, it was allegedly slipped down from the pocket during the scuffle and the applicants had allegedly picked that up and not returned to the de facto complainant. The incident took place in the compound of the applicants, which indicates that there was an alleged trespass into the property of the applicants by the de facto complainant. There is no action taken in consequence to the complaint which was filed by the third applicant before the police against the de facto complainant

7. Considering the fact that the applicants are not involved in any other criminal activities and that there is no possibility of their absconding and not cooperating with the investigation, I am of the opinion that they are entitled to anticipatory bail.

In the result, the bail application is allowed and the applicants are directed to surrender before the investigating officer within two weeks. After interrogation and recoveries, if any, in the event of their being arrested, they shall be released on bail on execution of bond for Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the like amount to the

satisfaction of the investigating officer and on the following conditions:

(i) They shall appear before the investigating officer as and when called for and co-operate with the investigation.

(ii) They shall not tamper with evidence or intimidate or influence the witnesses.

(iii) They shall not get involved in any similar offence during the currency of the bail.

In case of breach of any of the above bail conditions, the prosecution is at liberty to approach the jurisdictional court for cancellation of the bail.

Sd/-

ASHOK MENON

JUDGE

jg