

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

THURSDAY, THE 1ST DAY OF DECEMBER 2022 / 10TH AGRAHAYANA, 1944

BAIL APPL. NO. 9225 OF 2022

CRIME NO.894/2022 OF Kuruppampady Police Station, Ernakulam

PETITIONER/ACCUSED NOS.1 & 2:

- 1 ELDHOSE BENNY PAUL, AGED 25 YEARS, S/O BENNY PAUL,
OLAPPARA HOUSE, KOOTTUMADAM BHAGAM, RAYAMANGALAM
VILLAGE, PIN 683541
- 2 AKSHAY MANI,
AGED 20 YEARS, S/O MANI, PALLIPARAMBIL HOUSE
KEEZHILLAM P.O., RAYAMANGALAM VILLAGE, PIN - 683541

BY ADV R.DIVAKARAN

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, KOCHIN, PIN - 682031
- 2 HARIKRISHNAN
AGED 25 YEARS, S/O SIVAN, CHIRANGARAKUDY HOUSE,
PANNIKKARAMBALAM BHAGAM, KEEZHILLAM, RAYAMANGALAM,
PIN - 683541

BY ADV PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
01.12.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

VIJU ABRAHAM, J.

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B.A. No.9225 of 2022

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Dated this the 01st day of December, 2022

ORDER

This is an application for anticipatory bail.

2. When the matter was taken up for consideration today, the learned Public Prosecutor upon instructions submitted that the 2nd accused is deleted from the array of accused, therefore, I am considering the bail application in respect of the 1st accused alone.

3. The petitioner is accused No. 1 in Crime No.894/2022 of Kurupampady Police Station, Ernakulam District, alleging commission of offences punishable under Sections 323, 324, 326, 341 and 34 of Indian Penal Code. Subsequently, the offence punishable under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been deleted.

4. The prosecution allegation is that, the petitioner manhandled the defacto complainant and alleged that the 1st accused beat with an iron stick on the backside of the head of the defacto complainant. The defacto complainant sustained

injuries and he was admitted in the hospital and thus the accused has committed the aforesaid offences.

5. The learned counsel for the petitioner submitted that the allegations against him are all false. In fact there were some disputes between the brother of the defacto complainant and the 2nd accused(who was deleted from the party array) and the defacto complainant and others including his brother, criminally trespassed into the aquarium belonging to the 1st accused on 11.10.2022 and beat him and also encroached into the nearby bakery shop belonging to one Binoi Varghese and destroyed all his articles and in the said attack, the petitioner sustained injuries and he was admitted in the Taluk Head Quarters Hospital, Perumbavoor, as is evident from Annexure A2. It is further submitted that the petitioner is not involved in the attack and that he only tried to prevent the dispute between the 2nd accused and the defacto complainant. It is also submitted that the injuries if any sustained by the defacto complainant can only be as part of the scuffle.

5. The learned Public Prosecutor upon instructions submitted that it is true that the alleged incident happened in front of the shop of the petitioner and that the defacto

complainant sustained injuries including fracture to his hand. It is further submitted that the petitioner is not involved in any other crime.

6. Having regard to the facts and circumstances of the case and considering the nature of the allegations, I am of the opinion that custodial interrogation of the petitioner may not be required for the purpose of investigation and only a limited custody be granted for the said purpose. Therefore, 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 09.12.2022, at 11 a.m, and subject himself for interrogation on that day and on any other day/days as directed by the investigating officer. The petitioner shall co-operate with the investigation. In the event of arrest in Crime No.894/2022 of Kurupampady Police Station, Ernakulam 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) The petitioner shall appear before the investigating officer in Crime No.894/2022 of Kurupampady Police Station, Ernakulam District , on every Saturday, at 11 am, until the filing of the final report;

(iii) Petitioner shall appear before the investigating officer in Crime No.894/2022 of Kurupampady Police Station, Ernakulam District as and when summoned to do so;

(iv) The petitioner shall not attempt to contact the *defacto* complainant or interfere with the investigation or to influence or intimidate any witness in Crime No.894/2022 of Kurupampady Police Station, Ernakulam District ;

(v) 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.894/2022 of Kurupampady Police Station, Ernakulam 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**

ded/01.12.2022