

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

FRIDAY, THE 2ND DAY OF JUNE 2023 / 12TH JYAISHTA, 1945

BAIL APPL. NO. 4205 OF 2023

CRIME NO.547/2023 OF VARKALA POLICE STATION

PETITIONERS/ACCUSED 1 & 2:

- 1 SANU
AGED 43 YEARS
KOCHUPUTHEN VEEDU, KALKAVILA, KUNDAMAN BHAGAM,
PERUKAVU, VILAPPIL VILLAGE, NEYYATTINKARA, PIN -
695506
- 2 MAHESH LAL
AGED 43 YEARS
SUDHAKARAN, MANTHRIKAPURAM PALLI, PADINJATTATHIL
VEEDU, KILIKOLLUR VILLAGE, KOLLAM, PIN - 691004

BY ADVS.
SAIJO HASSAN
RAJALAKSHMI R.
SARITHA K.

RESPONDENT/STATE:

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

ADV SEETHA S - SR PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
02.06.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER

This bail application is filed under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioners are accused Nos.1 and 2 in crime No.547/2023 of Varkala Police Station. The offences alleged against the petitioners and other accused are under Sections 294(b), 323, 324, 353, 354 and 506(i), read with Section 34 of the Indian Penal Code.

3. The prosecution case is as follows: On 14.03.2023 at about 4 p.m., in furtherance of the common intention, the accused persons wrongfully restrained the Advocate Commissioner, deputed by the Munsiff's Court, Varkala to execute the order in I.A. No.2/2023 in O.S. No.24/2023, while she came for local inspection. It is alleged that accused Nos.1 and 2 uttered obscene words against her, the accompanying Advocate Clerk and the defacto complainant. It is also alleged that, the accused persons have assaulted the defacto complainant, Advocate Clerk and Advocate Commissioner, and on account of such attack, serious injuries were sustained by the defacto complainant. The crime was registered in such circumstances and as part of the investigation, the petitioners were arrested on 12.04.2023. Since then, they have been under

judicial detention. This application for regular bail is submitted by the petitioners in such circumstances.

4. Heard Sri. Saijo Hassan, the learned counsel appearing for the petitioners and Smt. Seetha S., the learned Public Prosecutor for the State.

5. The learned counsel for the petitioners submits that the petitioners are innocent of all the allegations. They were falsely implicated in the said case because of certain civil disputes between the parties. The learned counsel submits that the petitioners are in custody since 12.04.2023, and there is no purpose in keeping the petitioners under detention any longer. They are prepared to abide by any conditions that may be imposed by this Court.

6. On the other hand, the learned Public Prosecutor would oppose the aforesaid application by pointing out that there are serious allegations against the petitioners. During the investigation the offence under Section 326 was incorporated taking note of the injuries sustained by the defacto complainant. The matter is under investigation, and if the petitioners are released on bail it will cause prejudice to the prosecution.

7. I have perused the records. It is true that there are allegations against the petitioners which are serious in nature. However, the fact remains that the petitioners have been in custody

since 12.04.2023 onwards. Now about 50 days have elapsed since the date of arrest. There is substantial progress in the investigation. The learned Public Prosecutor indeed points out that the petitioners are having criminal antecedents as the 1st petitioner is involved in two other cases, whereas the 2nd petitioner is accused in a CBI case. In response to the aforesaid submission, the learned counsel for the petitioners points out that as regards the CBI case, the 2nd petitioner is already acquitted as per the judgment dated 25.05.2023 passed in S.C. No.243/2016 by the Special Judge, SB/CBI, Thiruvananthapuram. In such circumstances, after taking into account all relevant aspects, including the fact that the petitioners have been under judicial custody since 12.04.2023, I am inclined to grant bail to the petitioners subject to appropriate conditions to ensure that they are not influencing the witnesses. This is mainly because, taking note of the period of detention undergone by the petitioners and the stage of the investigation, further incarceration of the petitioners appear to be not necessary.

Accordingly, this bail application is allowed, and the petitioners are directed to be released on bail subject to the following conditions:-

- (i) The petitioners shall be released on bail on executing a bond for Rs 1,00,000/- (Rupees One

Lakh only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

- (ii) The petitioners shall fully cooperate with the investigation.
- (iii) The petitioners shall appear before the Investigating Officer between 10.00 a.m and 11.00 a.m. every Saturday until the filing of the final report.
- (iv) The petitioners shall also appear before the Investigating Officer as and when required.
- (v) The petitioners shall not commit any offence of similar nature while on bail.
- (vi) The petitioners 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.
- (vii) The petitioners 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**

APPENDIX OF BAIL APPL. 4205/2023

PETITIONERS' ANNEXURES

- | | |
|------------|--|
| Annexure 1 | TRUE COPY OF THE FIR IN CRIME NO
547/2023 OF VARKALA POLICE STATION,
THIRUVANANTHAPURAM DATED 14.03.2023 |
| Annexure 2 | TRUE COPY OF THE ORDER DATED 24.04.2023
IN C.M.P NO. 3989/2023 |
| Annexure 3 | TRUE COPY OF THE ORDER DATED 02.05.2023
IN CRIMINAL M.C NO 1136/2023 |
| Annexure 4 | CERTIFIED COPY OF THE ORDER DATED
19.05.2023 IN CRIMINAL M.C NO.
1316/2023 |