

BA. NO. 1985 OF 2020

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

WEDNESDAY, THE 29TH DAY OF APRIL, 2020 /9TH VAISAKHA, 1942

BA. NO. 1985 OF 2020

[CRIME NO 718/2019 OF CHALAKUDY POLICE STATION, THRISSUR DISTRICT]

Petitioners / Accused Persons 1&2

1. Poullose s/o Thattariyath Ousep aged 61, residing at Chalakudy Village, Kottat desom, Chalakudy Taluk Trissur District.

2. Beena w/o Poullose, Thattariyath , aged 61, residing at Chalakudy Village, Kottat desom, Chalakudy Taluk Trissur District.

By Advocate Sri T.N Manoj

Respondent

1.State of Kerala represented by the Public Prosecutor High Court of Kerala.

2.The Sub Inspector of Police Chalakudy Police Station

BY PUBLIC PROSECUTOR **SMT PUSHPALATHA.M.K**

THIS BA HAVING COME UP FOR ADMISSION ON 29.04.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

This is an application filed under Section 439 of the Code of Criminal Procedure.

2. Petitioners are accused 1 and 2 in Crime No.718/2019 of the Chalakkudy Police Station. The petitioners are alleged to have committed the offences punishable under Sections 323, 354, 294(b) and 506 of the Indian Penal Code.

3. The prosecution case, in brief, is that: the defacto complainant was assaulted by accused 1 and 2, when the defacto complainant attempted to enter the matrimonial home. Hence, the accused have committed the above offences.

4. Heard the learned counsel for the petitioners and the learned Public Prosecutor via video-conferencing.

5. The learned counsel for the petitioners argued that the petitioners are absolutely innocent of the allegations levelled against them. In fact, the petitioners have filed

O.S.No. 301 of 2019 before the Court of Munsiff, Chalakkudy, seeking a decree for permanent prohibitory injunction to restrain the defacto complainant from entering into the matrimonial home. It is out of the said animosity that the defacto complainant has filed the above frivolous complaint before the Police. The custodial interrogation of the petitioners is not necessary and hence, the petitioners may be granted an order of pre-arrest bail.

6. The learned Public Prosecutor, on instructions, submitted that the allegations levelled against the petitioners is out of a matrimonial dispute between the son of petitioners 1 and 2 and the defacto complainant. Hence, the petitioners may be enlarged on bail, on appropriate conditions.

7. On a cumulative appreciation of the facts and circumstances of the case, particularly considering the fact that the petitioners have already filed a suit before the competent civil court and obtained an order of temporary injunction; that the disputes between the petitioners and the

defacto complainant arise out of the strained marital relationship between the defacto complainant and the son of petitioners 1 and 2 and that the custodial interrogation of the petitioners is not necessary, I am convinced that this is a fit case to grant the petitioners an order of pre-arrest bail as provided under Section 438 of Code of Criminal Procedure.

8. In the result, this bail application is allowed. The petitioners shall surrender before the Investigating Officer on or before 08.05.2020. Upon their surrender, they shall be released on bail by the Investigating Officer, subject to the following conditions:-

(i) The petitioners shall be released on bail, on executing a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) each, with two solvent sureties for the likesum, in the event of the arrest by the Police in connection with the crime

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer, as and when required by him. The

petitioners shall also cooperate with the investigation of the case.

(iii) The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or any Police Officer or tamper with the evidence.

(iv) The petitioners shall not commit any offence while on bail.

(vi) Needless to mention that, if the petitioners violate any of the above conditions, the Investigating Officer shall be at liberty to move the jurisdictional Court and file appropriate application seeking cancellation of this bail order .

With the above observations, this Bail Application is allowed.

C.S.DIAS, JUDGE

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