

Bail Appl.No.127 of 2020

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 21ST DAY OF APRIL, 2020 /8TH VAISAKHA, 1942

Bail Appl.No.127 of 2020

[Filed under Section 438 of the Criminal Procedure Code in OR No.2/2020 of Vazhani Forest Station in Thrissur Division in Machad Range in before the Judicial First Class Magistrate Court, Wadakkanchery]

PETITIONER/ACCUSED (A3)

Lalu Johnson, aged 38,
S/o. Johnson,
Edaparambu Puthen Veedu,
Kavadithalackal, Karakulam.P.O.,
Karakulam,
Thiruvananthapuram – 695 564.

RESPONDENT/STATE

1. The State of Kerala,
Represented by the Public Prosecutor,
High Court of Kerala,
Ernakulam – 682 031.
2. Deputy Range Forest Officer,
Vazhani Forest Station,
Division Thrissur, Range Machad,
Thrissur District – 680 582.

BY PUBLIC PROSECUTOR SRI **BINEESH E.C.**

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28.04.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

This is an application for pre-arrest bail filed under Section 438 of the Code of Criminal Procedure.

2. The petitioner is the 3rd accused in OR No. 02/2020 of the Vazhani Forest Station, Thrissur Division in Machad Range. The petitioner along with other accused are alleged to have committed the offence punishable under Sections 27 (1) (c) of the Kerala Forest Act 1961.

3. The prosecution allegation, in brief, is that; the petitioner who is an overseer in the Irrigation Department and in charge of the construction, had along with other accused put fire to the filth removed from the irrigation canal. The fire spread in the area causing a loss of Rs.20,000/-. Thus petitioner and the other accused are alleged to have committed the above offence.

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

5. The learned counsel for the petitioner argued that the petitioner is innocent of the accusations leveled against him. The petitioner is suffering from 40% blindness. The petitioner has not committed the above offence, as the canal does not fall within the jurisdictional limits of the petitioner. The petitioner has been implicated on a wrong notion, that he is the person in charge of the canal where the fire spread out. Hence the petitioner may be granted an order of pre-arrest bail.

6. The learned Public Prosecutor submitted that even if the petitioner is granted an order of per-arrest bail, stringent conditions may be imposed including directing the petitioner to co-operate with the Investigating Officer.

7. Having considered the cumulative facts and circumstances of the case, particularly the fact that that the petitioner is physically disabled person; and that there is a dispute pertaining to area under the supervision of the petitioner; that the petitioner's custodial interrogation is not necessary, I am convinced that this is a fit case to grant 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 petitioner is directed to surrender before the Investigating Officer on or before 08/05/2020. Upon his surrender, the Investigating Officer shall release the petitioner on bail, subject to the following conditions.

i) The petitioner shall be released on bail on executing a bond for a sum of Rs.50,000/ (Rupees Fifty thousand only) with two solvent sureties for the like sum each in the event of arrest by the police in connection with the crime in the bail application.

(ii) The petitioner shall make himself available for interrogation before the investigating officer as and when required by him. The petitioner shall cooperate with the investigation of the case.

(iii) Petitioner 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 him from disclosing such facts to the court or to any police officer or tamper with the evidence.

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

v) Needless to state that, if the petitioner violates any of the conditions in this order, the Investigating Officer would be at liberty to move the jurisdictional Court and seek for cancellation of this bail order.

With the above observations, this bail application is allowed.

C.S.DIAS, JUDGE