

SESSIONS DIVISION, KOLLAM
IN THE PRINCIPAL SESSIONS COURT
Present: Smt. M.B. Snehalatha, Prl. Sessions Judge, Kollam
Wednesday the 09th day of August, 2023/18th Sravana, 1945

Crl. M.C. No. 1670/2023 in
Crime No. 883/2023 of Chathannoor Police Station

Petitioner : Ajayan, Aged. 43 years, S/o. Pappachan,
Kaleelil Vadakkathil, Near Mother Theresa
Shrine, North Mylakkad, Kannanalloor. P.O,
Kollam.

By Adv. Asif Rishin. A

Respondent : State of Kerala represented by the Inspector
of Police, Chathannoor Police Station
through the Public Prosecutor, Kollam.

This petition is filed u/s 439 of Cr. P.C having come up for consideration on 09.08.2023 on the same day the court passed the following.

ORDER

Application filed by the accused under Section 439 of Cr.P.C. seeking regular bail in Crime No. 883/2023 of Chathannoor Police Station, registered for the offences punishable under Sections 294 (b), 323, 324, 506, 326 and 308 of the Indian Penal Code.

2. Prosecution case in brief is as follows: De-facto complainant is a minor boy aged 14. On 08.07.2023 at 9.30 p.m., accused trespassed into the courtyard of the de-facto complainant's residence and attacked the de-facto complainant's father Ajayan with a chopper. When

Ajayan warded off the said attack, the blow hit on his left ear and he sustained injuries. When the de-facto complainant who is the minor son of Ajayan, tried to intervene, accused attacked the de-facto complainant with the chopper aiming at his head and when the de-facto complainant tried to defend the said attack, he sustained serious injury on his right hand. Accused thereby committed the aforesaid offences.

3. Petitioner/accused was arrested on 27.07.2023 and he is in judicial custody since then.

4. Petitioner/accused would contend that he is innocent and was falsely implicated. There is a delay of 6 days in registering the FIR which shows that the crime was registered after due deliberation and afterthought. In the FIS, the weapon allegedly used has not been mentioned. Hence, no offence under Section 326 of IPC has been made out. The allegation in the FIS reveals the ingredients of voluntarily causing grievous hurt on sudden provocation. Petitioner/accused has no animosity towards the injured and has no connection with the alleged crime. Police has fabricated a false story. Petitioner/accused is in judicial custody from 27.07.2023 onwards and he may be released on bail.

5. The learned Public Prosecutor strenuously opposed the application for bail reiterating the prosecution allegations. In the factual report filed by the investigating officer, it has been stated that if the petitioner/accused is released on bail, he may tamper with the evidence by

intimidating and influencing the witnesses and there is also possibility of repeating similar offences.

6. Heard the learned counsel for the petitioner/accused and the learned Public Prosecutor.

7. Perused the Case Diary made available by the prosecution and the factual report filed by the investigating officer.

8. The materials placed on record by the prosecution would prima facie reveal that accused attacked the de-facto complainant who is a minor aged 14 with a chopper and caused serious injury on his right hand. The materials would further reveal that the accused also attacked the father of the de-facto complainant and caused injuries.

9. The Wound Certificate of the de-facto complainant would show that in the incident he sustained zone II digital nerve injury right thumb. The materials on record would show that the de-facto complainant had to undergo plastic surgery consequent to the serious injury sustained to his right hand.

10. The Wound Certificate of the father of the de-facto complainant would show that in the incident he sustained lacerated wound left elbow region, lacerated wound over left temporo parietal region, lacerated wound left side occipital area, lacerated wound left pre-auricular area etc.

11. Prima facie, there are sufficient materials revealing the involvement of the petitioner/accused with the crime alleged. Investigation is in its initial stage. I find merit in the objection raised by the investigating officer that if the petitioner/accused is released on bail at this stage of investigation, there is possibility of intimidating the de-facto complainant and influencing witnesses and it may hamper the investigation. Having regard to the nature and gravity of the offences, I am of the view that it is not conducive to enlarge the petitioner/accused on bail at this initial stage of investigation.

Accordingly, this petition for bail stands dismissed.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open Court on this the 9th day of August, 2023.)

Sd/-
M. B. Snehalatha,
Sessions Judge.

//True Copy//

Sheristadar

Copy to: The Inspector of Police, Chathannoor Police Station.

Typed by : Vineetha. R
Compared by : Ajitha. R