

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 6TH DAY OF FEBRUARY 2024 / 17TH MAGHA, 1945

BAIL APPL. NO. 580 OF 2024

CRIME NO.17/2024 OF Vandiperiyar Police Station, Idukki

PETITIONER/S:

BABU@PALRAJ,


BY ADVS.
S.K.ADHITHYAN
REUBEN CHARLY

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
PIN - 682031
- 2 SHO VANDIPERIYAR POLICE STATION
VANDIPERIYAR P.O IDUKKI,, PIN - 678582

OTHER PRESENT:

SR PP SRI C S HRITHWIK

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
06.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



ORDER

The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the sole accused in Crime No.17/2024 of the Vandiperiyar Police Station, Idukki, registered against him for allegedly committing the offences punishable under Secs.307, 324 and 294 (b) of the Indian Penal Code.

2. The gist of the prosecution case is that: on 06.01.2024 around 11 hours, the accused manhandled the defacto complainant and stabbed him with a sharp object on his chest and thighs. Thus, the accused has committed the above offences.

3. Heard; S.K.Adhithyan, the learned counsel appearing for the petitioner and Sri.C.S.Hrithwik, the learned Public Prosecutor.

4. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the accusations



leveled against him. In fact, this Court, by Annexure A2 interim order dated 19.12.2023 in WP(C) No.42868/2023, had directed the 3rd respondent therein – the Station House Officer, Vandiperiyar Police Station to afford adequate police protection to the petitioner and his relatives in view of the threat of the defacto complainant and his relatives in connection with the acquittal of the petitioner's nephew in SC No.474/2021 by the Court of Session, Kattappana. It was an aftermath of the said incident that the above crime occurred. Actually, the petitioner was injured in the assault caused by the defacto complainant and Crime No.56/2024 of the same Police Station has been registered against the de-facto complainant. It is the counter blast to the above crime and for the violation of Annexure A2 order, that the present crime has been registered. At any rate, the



investigation in the case is practically complete, recovery has been effected and petitioner has been in judicial custody since 06.01.2024, which is more than 30 days. The petitioner's further detention is unnecessary. Hence, the application may be allowed.

5. The learned Public Prosecutor seriously opposed the application. He contended that the petitioner had committed a heinous offence by stabbing the defacto complainant and his father, who were both injured in the incident. He made available the accident register cum wound certificate to demonstrate that the two of them had suffered incised wounds on different parts of their bodies. He contended that the situation in the locality is quite tense due to the acquittal of the accused in SC No.474/2021. If the petitioner is let off on bail, there can be a law and order situation in the locality and further



crimes may happen, especially since there is a threat to life of the defacto complainant. Moreover, the investigation in the case is in progress and there is every likelihood of the petitioner influencing the witnesses and tampering with the evidences. Hence, the application may be dismissed.

6. Indisputably, there is a case and counter case registered against the petitioner and the defacto complainant and their family members in connection with an incident that occurred on 06.01.2024. Annexure A2 order establishes that the petitioner and his relatives were granted an order of police protection as against the anticipated attack of the defacto complainant and his family members. The Station House Officer, Vandiperiyar was directed to ensure that law and order is maintained in the locality in view of the acquittal of the accused in



SC No.474/2021. The fact remains that, as an aftermath of the acquittal of the accused in the above crime, the present crime as well as Crime No.56/2024 have been registered. Admittedly, the petitioner has been in judicial custody since 06.01.2024. The investigation in the case is in progress and the recovery has to be effected.

7. In ***Sanjay Chandra v. CBI [(2012) 1 SCC 40]***, the Honourable Supreme Court has held that a person is believed to be innocent, until he is found guilty otherwise it would be contrary to the concept of personal liberty. Like wise in ***Dataram Singh v. State of Uttar Pradesh [(2018) 3 SCC 22]***, the Honourable Supreme Court has observed that grant of bail is the general rule and putting a person in jail or prison is an exception. Nonetheless, each case would have to be decided based on the concerned facts and the courts are bound to



exercise its discretion judiciously. It is also held in ***State of Kerala v. Raneef [(2011) 1 SCC 784]***, that the continued detention of an under-trial without, any sufficient reasons, would tantamount to an infringement of his right to life as guaranteed under Article 21 of the Constitution of India.

8. On an anxious consideration of the facts, materials placed on record, the rival submissions made across the Bar, the law referred to above, and taking into account the fact that the petitioner has been in judicial custody since 06.01.2024, that the Station House Officer, Vandiperiyar was directed to maintain law and order in the locality as per Annexure A2 order, that the investigation in the case is practically complete, that the recovery has been effected and that the petitioner has been in judicial custody for the last more than 30 days, I



am of the definite view that the petitioner's continued detention is unnecessary. Hence, I am inclined to enlarge the petitioner on bail, but subject to stringent conditions:

In the result, the application is allowed, by directing the petitioner to be released on bail on him executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum, to the satisfaction of the court having jurisdiction, which shall be subject to the following conditions:

(i) The petitioner shall appear before the Investigating Officer on every Tuesday and Saturday between 9 a.m. and 11 a.m for a period of one month or till the final report is laid, whichever is earlier. He shall also appear before the Investigating Officer as and when required;

(ii) The petitioner shall not directly or indirectly make any inducement, threat or procure 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 in any manner, whatsoever;

(iii) The petitioner shall not commit any offence while he is on bail;

(iv) The petitioner shall surrender his passport, if any, before the court below at the time of execution of the bond. If he has no passport, he shall file an affidavit to the effect before the court below on the date of execution of the bond;

(v) The petitioner shall not enter the division of the defacto complainant and his father until the final reprot is filed.

(vi) In case of violation of any of the conditions mentioned above, the jurisdictional court shall be empowered to consider the application for cancellation of bail, if any filed, and pass orders on the same, in accordance with law.

(vii) Applications for deletion/modification of the bail



conditions shall be moved and entertained by the court below.

(viii) Needless to mention, it would be well within the powers of the Investigating Officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioner even while the petitioner is on bail as laid down by the Hon'ble Supreme Court in ***Sushila Aggarwal v. State (NCT of Delhi) and another*** [2020 (1) KHC 663].

sd/-

**C.S.DIAS
JUDGE**

rkc/06.02.24



APPENDIX OF BAIL APPL. 580/2024

PETITIONER ANNEXURES

- Annexure 1 TRUE COPY OF THE FIR IN CRIME NO. 17/2024
OF VANDIPERIYAR POLICE STATION
- Annexure 2 TRUE COPY OF THE ORDER IN W.P(C) NO.
48868/2023 DATED 19/12/2023
- Annexure 3 TRUE COPY OF THE FACEBOOK POSTS ON
7/1/2024 BY M.K.MUDAKKARIL
- Annexure 4 TRUE COPY OF THE RELEVANT PHOTOGRAPHS
ALONG WITH THE FACEBOOK POSTS OF M.K.
MUDAKKARIL
- Annexure 5 TRUE COPY OF THE WOUND CERTIFICATE ISSUED
BY TALUK HEAD QUARTERS HOSPITAL, PEERMED
DATED 6/1/2024 IN THE NAME OF THE
PETITIONER

