

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

TUESDAY, THE 7TH DAY OF MAY 2024 / 17TH VAISAKHA, 1946

BAIL APPL. NO. 3633 OF 2024

CRIME NO.2048/2023 OF Thrikkakara Police Station, Ernakulam

PETITIONER/S:

MUHAMMED RAHI HUSSAIN

AGED 30 YEARS

S/O SUKRU GHATISHAL, GOALIN UTTAR DINAIPUR, GOALPOHAR-1, WEST
BENGAL, NOW RESIDING AT THRIKKAKARA, KAKKANAD, PIN - 733210

BY ADV AMEER.K.M.

RESPONDENT/S:

STATE OF KERALA

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

OTHER PRESENT:

PP VIPIN NARAYANAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
07.05.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

C. PRATHEEP KUMAR, J

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B.A No. 3633 of 2024

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ORDER

Dated this the 7th day of May, 2024

This is an application for regular bail filed under Section 439 of the Code of Criminal Procedure, 1973 by the 2nd accused in Crime No. 2048 of 2023 of Thrikkakara Police Station, Ernakulam, registered under Sections 284, 308, and 328 r/w Section 34 of IPC.

2. The prosecution allegation is that, on 18.10.2023, at about 09.45 p.m., the defacto complainant ordered a food item called 'Shawarma' through 'Swiggy' from the restaurant wherein the petitioner was working as cook. Consumption of the above food item resulted in causing some ailments to the defacto

complainant, and she was admitted in EMC Hospital, Palarivattom.

3. The owner of the restaurant was arrayed as the 1st accused, and he was granted anticipatory bail by this Court. The petitioner was arrested on 19.04.2024, and since then he is in judicial custody.

4. According to the learned counsel for the petitioner, the restaurant is functioning for the last eight years, and selling more than 150 Shawarmas daily. The Shawarma is to be consumed within two hours from the time of its preparation. So far, no complaints were received against the restaurant by any authorities. The goodwill of the restaurant created jealousy on neighboring restaurants. There is no proof that the victim had purchased food material from the restaurant, where the petitioner is working. Therefore, the petitioner prayed for releasing him on bail.

5. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

6. Learned Public Prosecutor opposed the bail application.

7. The petitioner is an employee in the restaurant from where the defacto complainant allegedly purchased the food item Shawarma, which resulted in causing physical ailment to the defacto complainant. Considering the fact that the petitioner is in judicial custody since 19.04.2024, I am inclined to allow this application subject to the following conditions:-

- i. The petitioner is released on bail on executing bond for Rs.50,000/- (fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the Court below.
- ii. The petitioner shall report before the Investigating Officer on every Tuesday between 10.00 am and 11.00 am till the final report is filed or till the end of June, 2024, whichever is earlier.

- iii. The petitioner shall co-operate with the investigation. He shall not intimidate or influence the witnesses or tamper with the evidence.
- iv. The petitioner shall not involve himself in similar offence while on bail.

Sd/-

**C.PRATHEEP KUMAR
JUDGE**

RMV