

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SHIRCY V.

WEDNESDAY, THE 14<sup>TH</sup> DAY OF JULY 2021 / 23RD ASHADHA, 1943

BAIL APPL. NO. 3750 OF 2021

**PETITIONERS/ACCUSED 1 TO 4:**

- 1 DR.SIJO RAJAN R V  
AGED 28 YEARS  
S/O RAJAN.C. RESIDING AT R.V.SADHANAM,  
KANNAMKUZHY, NEAR LUTHERAN CHURCH, KUTTIYANI,  
VATTAPPARA.P.O, THIRUVANANTHAPURAM DISTRICT-695028
- 2 RAJAN.C  
AGED 54 YEARS  
S/O CHELLAPPAN, R.V.SADHANAM, KANNAMKUZHY,  
NEAR LUTHERAN CHURCH, KUTTIYANI, VATTAPPARA.P.O,  
THIRUVANANTHAPURAM DISTRICT-695028
- 3 VASANTHA RAJAN. R.V.  
AGED 53 YEARS, W/O RAJAN.C.,  
R.V.SADHANAM, KANNAMKUZHY,  
NEAR LUTHERAN CHURCH, KUTTIYANI, VATTAPPARA.P.O,  
THIRUVANANTHAPURAM DISTRICT-695028
- 4 RIJO.RAJAN.R.V.  
AGED 24 YEARS, S/O RAJAN.C.,  
R.V.SADHANAM, KANNAMKUZHY,  
NEAR LUTHERAN CHURCH, KUTTIYANI, VATTAPPAR P.O,  
THIRUVANANTHAPURAM DISTRICT-695028

BY ADV K.SANEESH KUMAR

**RESPONDENTS/COMPLAINANTS:**

- 1 THE STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM DISTRICT-682031
- 2 STATION HOUSE OFFICER  
VATTAPPARA POLICE STATION,  
THIRUVANANTHAPURAM DISTRICT-695028
- 3 ADDL. DR. DHANYA U.S  
AGED 27 YEARS, W/O. SIJO RAJAN,

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ABHILASH NIVAS , CHOWARA, CHOWARA P.O

TRIVANDRUM -695501

(IS IMPEADED AS ADDL.R3 AS PER ORDER DATED  
14.7.2021 IN CRL.M.A.NO.1/2021)

BY ADVS.  
THOMAS J.ANAKKALLUNKAL  
MARIA PAUL

AJITH MURALI- P.P

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
14.07.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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**ORDER**

Apprehending arrest in connection with Crime No.503/2021 of the Vattappara Police Station registered for the offences punishable under Sections 294(b), 341, 323, 324, 325, 498(A) r/w 34 of the Indian Penal Code, the petitioners have approached this Court with this petition under Section 438 of the Code of Criminal Procedure.

2. The prosecution case in brief is as follows:

The 1<sup>st</sup> petitioner had married the defacto complainant as per the custom of their community on 14.09.2020 and they resided together as husband and wife at his residence along with her in laws till 14.04.2021. She was gifted with gold ornaments, a car, money, as well landed property by her parents. But she was subjected to physical and mental torture demanding more money by the petitioners. Even the 3<sup>rd</sup> accused, her mother-in-law had assaulted her while she was residing in her matrimonial home. Since the physical and mental torture has become unbearable she contacted her parents and on 14.04.2021 at about 11.30 a.m. her father and brother reached the residence of the 1<sup>st</sup> petitioner to

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take her back. Then the petitioners 2 and 3 wrongfully restrained her father and manhandled him and her brother was also assaulted by the petitioners. When the defacto complainant intervened to rescue them she was also attacked and she too sustained injuries including fracture. Her father had sustained severe injuries on his head and spinal cord. Her brother also sustained fracture in the brutal attack by the petitioners.

3. Heard the learned counsel for the petitioner as well the learned Public Prosecutor and the learned counsel for the defacto complainant.

4. The learned counsel for the petitioners would submit that the 1<sup>st</sup> petitioner is a doctor who joined Government service only on 03.05.2021. In fact, he has not committed the offences as alleged by the prosecution. So also his parents and his brother are totally innocent of the allegations levelled against them. But they have been falsely implicated in the case at the instance of the defacto complainant as she wants to shift her residence and to set up a separate residence for herself and her husband/the 1<sup>st</sup> petitioner. Though they are totally innocent of the allegations levelled against

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them they apprehend unnecessary arrest and the trauma of arrest and hence this application.

5. But this application is vehemently opposed by the learned Public Prosecutor contending that the defacto complainant as well as her brother had sustained injuries including fracture and as her father, who is aged 63 years have sustained serious injuries, is still undergoing treatment for the injuries sustained by him which he never expected from his own son-in-law and his parents. As the investigation is only in the preliminary stage, if bail is granted that would adversely affect in proceeding with the investigation by the investigating agency.

6. The defacto complainant who is impleaded in the case as the 3<sup>rd</sup> respondent has stoutly opposed granting bail to these petitioners. It is contended by her that, in fact her parents had handed over an amount of Rs.7,00,000/- to her as gift for the marriage apart from a car. They have also registered 2 acres of land in her favour and due to the compulsion of the 1<sup>st</sup> petitioner 10 cents of property with road frontage, owned by her father was transferred in the name of the 1<sup>st</sup> petitioner. But the petitioners

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insisted to transfer the entire property of 2 acres and when she refused, she was manhandled by them and to pressurize her, she was treated with cruelty. When the physical torture was unbearable she contacted her parents so as to return to her paternal house. So as requested by her on 14.04.2021, her father came along with her brother to fetch her back to her home. At that time the petitioners together manhandled them and caused injuries to all of them, is her version.

7. It is significant to note that the defacto complainant has produced medical records to substantiate her contentions. Annexure R3 (f) is the wound certificate of the defacto complainant, Annexure R3(d) series are the wound certificates of her father and Annexure R3(e) is the wound certificate of her brother. A perusal of all these documents would reveal that they have sustained physical assault and serious injuries from the hands of the petitioners on 14.04.2021 when they reached at the residence of the 1<sup>st</sup> petitioner. It is true that the 1<sup>st</sup> petitioner is a doctor and he joined Government service just two months back. The defacto complainant is also a young doctor like the 1<sup>st</sup> petitioner. But she

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too was manhandled by the petitioners within seven months of her marriage. Her aged father, who came there as requested by her to take her back to his house as her life was not peaceful and smooth at the residence of the petitioners, was brutally attacked by them as revealed from the medical records referred above. So no doubt the allegations levelled against these petitioners are grave and serious in nature. Harassment, abuse and torture both mental and physical towards married ladies are increasing day by day in our country to pressurize them to bring more wealth to the family of the bridegroom to improve their financial situation. Though so many cases are being registered against husbands and in laws there is no change in the attitude of the society towards married women and family members. The attack towards them are of-course, for various reasons, making their matrimonial homes as most dangerous place to live and number of cases being reported in our country is alarming, though stringent laws are there. This has to be stopped for ever. But, if anticipatory bail is granted to such wrong doers definitely, that will give a 'wrong message' to the society.

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Even though the 1<sup>st</sup> petitioner is a doctor just started his service in the Government sector and is engaged with Covid duties, I do not think that this is a fit case in which pre-arrest bail can be granted to him. *Prima facie* it is seen that his brother and his parents also joined to commit the alleged offences. So they also do not deserve pre-arrest bail as requested. Still considering the entire facts involved in this case, I think that they can be directed to surrender before the jurisdictional Magistrate on 19.07.2021 and seek regular bail. If they surrender and an application is moved, the learned Judicial First Class Magistrate concerned can consider the same on merits and dispose of the same preferably on the same day in accordance with the law.

With these observations this application is dismissed.

Sd/-

**SHIRCY V.**

**JUDGE**

mpm