

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 30TH JUNE 2008 / 9TH ASHADHA 1930

Bail Appl..No. 4023 of 2008()

CMP.5305/2008 of J.M.F.C.-II, NEYYATTINKARA
CRIME NO. 149/2008 OF THIRUVALLOM POLICE STATION

PETITIONER

MONYKANDAN, S/O. SWAMY NADAN
KUZHIYAMVILA LAKSHAM VEEDU, PARAVILA, KUNNUMPARA
WARD, PACHALLOOR VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENT:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI K.S.SIVAKUMAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30/06/2008, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K. HEMA, J.

B.A.No. 4023 of 2008

Dated this the 30th day of June, 2008

ORDER

Application for bail.

2. Petitioner is the 3rd accused. According to the prosecution, accused 1 and 2 were accused in another case. The Sub Inspector of Police, Thiruvallom Police Station attempted to arrest accused 1 and 2. But they resisted their arrest. The petitioner who is the 3rd accused and the 4th accused told him that accused 1 and 2 cannot be arrested. All of them also assaulted the defacto-complainant and he sustained injuries. A watch which had fallen down was taken away by the 2nd accused. A crime was hence registered under sections 332, 379, 225 read with section 34 IPC.

3. The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case. According to him, the Sub Inspector had come to the locality in search of the 1st and 2nd accused. He wanted the petitioner to show the house of the 1st accused, but he was not prepared to do so. Hence, he was brutally manhandled by the Sub Inspector. The petitioner told the Sub Inspector that he would file a private complaint against him and the Sub Inspector was infuriated by this and he

has falsely made the petitioner an accused in this case to shield him against the proposed private complaint to be filed by the petitioner.

4. The learned counsel for the petitioner pointed out that there is a discrepancy between the First Information Statement and the First Information Report, which will clearly show that the petitioner's name was subsequently brought in, as an after thought. In the last page of the First Information Statement, it is stated that the two persons who were resisting the arrest of accused 1 and 2 are “Manikandan” and “Gopan”. They are the petitioner and the 4th accused. Thus, their names were specifically mentioned in the First Information Statement. But, in the First Information Report in column No.7 the names of the petitioner and the 4th accused are not mentioned, but instead, a reference was made to two persons who are identifiable by sight. Therefore, it is contended that the last page in the First Information Statement was manipulated and fabricated subsequent to the registration of the crime. The First Information Statement was recorded at 11 p.m. on 6-6-2008 and the F.I.R. at 10.20 a.m. on 7-6-2008.

This application is opposed. It is submitted that the recovery is not effected. The other co-accused are not arrested. On hearing both sides, I am satisfied that the petitioner's continued detention may not be necessary for recovery. The petitioner was arrested on 7-6-2008 and the watch was

allegedly taken away by the 2nd accused and not the petitioner. Hence, the petitioner is granted bail on the following terms and conditions:-

1) The petitioner shall be released on bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like amount to the satisfaction of the Court of the Judicial First Class Magistrate-II, Neyyattinkara.

2) The petitioner will co-operate with the investigation.

The application is allowed.

**K. HEMA,
JUDGE.**

mn.