IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ASHOK MENON

WEDNESDAY, THE 16TH DAY OF DECEMBER 2020 / 25TH AGRAHAYANA, 1942

Bail Appl.No.8128 OF 2020

CRIME NO.471/2020 OF Pattambi Police Station , Palakkad

PETITIONER/S:

1 YOOSUF,
AGED 45 YEARS, SON OF MUHAMMED HAJI,
KARIMBANAKKAL HOUSE, KONDOORKKARA POST,
ONGALLUR, PATTAMBI TALUK – 679313.

2 UMMER,
AGED 44 YEARS, SON OF MUHAMMED HAJI,
KARIMBANAKKAL HOUSE, KONDOORKKARA POST,
ONGALLUR, PATTAMBI TALUK – 679313.

BY ADV. SRI.R.SREEHARI

RESPONDENT/S:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM – 682031.

OTHER PRESENT:

SRI.AJITH MURALI, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R

Dated this the 16th day of December 2020

This is an application for anticipatory bail under Section 438 of Cr.P.C.

2. The applicants are accused 1 and 2 in Crime No.471/2020 of Pattambi Police Station for having allegedly committed the offences punishable under Sections 341, 323 and 294(b) read with Section 34 of the I.P.C. and also under Sections 3 and 4 of the Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention Of Violence and Damage to Property) Act, 2012.

3. The prosecution case, in brief, is that on 15.11.2020, the applicants in furtherance of common intention wrongfully restrained the health-care service personnel and assaulted them after hurling abuses at them, and thus, committed the offences as stated above.

4. The applicants state that the allegations are not true. The daughter of the 1st applicant was admitted in the hospital for delivery and post-delivery, some complication arose to the child. The authorities wanted the child to be shifted to a better hospital at Thrissur or Perinthalamanna. The applicants wanted to meet the doctor to get the details about the complications. The health-care service personnel did not allow the applicants to meet the doctor and get the instructions directly because of the COVID-19 restrictions. This allegedly caused some resentment among the applicants and irked by that, they had hurled abuses at the de facto complainant and others, but they did not cause any hurt to the health service personnel and no damage or mischief was caused. They do not have any criminal antecedents and seek anticipatory bail.

5. Heard the learned Counsel for the applicants and the learned Public Prosecutor.

6. Admittedly, the applicants have no criminal antecedents. No serious hurt was caused. Nor was any mischief or damage committed. Under the circumstances, I find no reason for the custodial interrogation of the applicants.

In the result, the bail application is allowed and the applicants are directed to surrender before the investigating officer within two weeks. In the event of their being arrested, after interrogation, they shall be released on bail on the execution of a bond for Rs.50,000/- (Rupees fifty thousand only) each, with two solvent sureties for the like amount each, to the satisfaction of the investigating officer, and on the following conditions:

(i) They shall not influence or intimidate witnesses or tamper with evidence;

(ii) They shall appear before the investigating officer as and when called for and shall cooperate with the investigation; and

(iii) During the bail period, they shall not get involved in any similar offences.

In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court.

Sd/-

dkr

ASHOK MENON

JUDGE