

HIGH COURT OF KERALA**Justice Mohammed Nias C.P.****Date of Decision: 12th December 2023**

BAIL APPL. NOS. 10328 & 10330 OF 2023

ABDUL RAZAQ @ ARIKADY RAZAQ ...PETITIONER**VERSUS****STATE OF KERALA ...RESPONDENT****Legislation and Rules:**

Sections 143, 147, 148, 308, 324, 330, 342, 363, 364A r/w 149, 302, 324, 341, 364 r/w 34 of the IPC; Section 438 of the Code of Criminal Procedure.

Subject:

Petitions for anticipatory bail in cases involving allegations of abduction, assault, and murder.

Headnotes:

Petitioner's Involvement in Crimes – Accused of participating in abduction, assault, and murder in two separate instances [Crime Nos. 490/2022 and 493/2022] – Alleged to have played a key role in both incidents, including arranging a “quotation” to assault victims [Paras 2-4].

Evidence and Prosecution's Argument – Presence of petitioner at the crime scene and involvement in conspiracy suggested – PostMortem Report indicating severe injuries and cause of death as 'Traumatic brain injury and internal bleeding due to multiple blunt injuries' – Statements implicating petitioner's significant role [Para 7].

Defence Argument – No material evidence directly linking petitioner to the crimes – Mention of petitioner's presence not sufficient for connection with the crimes [Para 6].

Court's Decision – Bail applications dismissed – Considering the grave nature of the crimes and the pivotal role of the petitioner, anticipatory bail not granted to ensure proper investigation – Noted that petitioner had been absconding [Para 7].

Referred Cases:

Not mentioned in the provided text.

Representing Advocates:

Advs. S. Jiji & M.M. Baby for the petitioner; Smt. T.V. Neema, Sr. PP & Sri. M.C. Ashi, PP for the respondent. MOHAMMED NIAS C. P. , J.

=====

B. A. Nos. 10328 & 10330 of 2023

=====

Dated this the 12th day of December, 2023

ORDER

These are the second bail applications filed by the same petitioner in two crimes.

2. Apprehending arrest in Crime No.490/2022 of Manjeswar Police

Station, Kasargod, registered for offences punishable under Sections 143, 147, 148, 308, 324, 330, 342, 363 & 364A r/w 149 of the IPC, the petitioner herein/accused No.17 has filed B.A.No.10328/2023, and apprehending arrest in Crime No.493/2022 of Manjeswar Police Station, Kasargod, registered for offences punishable under Sections 302, 324, 341 & 364 r/w 34 of the IPC, the petitioner herein/accused No.17 has filed B.A.No.10330/2023, under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail.

3. The prosecution case in B.A.No.10328/2023 is that, on 24.6.2022 at about 3 p.m., the de-facto complainant and his friend Anwar reached Paivalige as called by the first accused and all accused together forcefully took the defacto complainant in a black jeep and his friend in another car to a house in Bayar route and wrongfully restrained there for two days and assaulted them with stick and hammer handle and other deadly

weapons all over the body and caused injury to them and released them only by 6 p.m. on 26.6.2022. The assault with heavy wooden sticks if not properly prevented by the de-facto complainant, it is alleged that even his death could have occurred. Thereby, the petitioner herein is alleged to have committed the aforementioned offences.

4. The prosecution case in B.A.No.10330/2023 is that the accused persons, on 26.6.2022 at about 11 a.m., forcefully took the brother of the defacto complainant in a car to a house in Noothila and wrongfully restrained there and assaulted him with wooden stick and other deadly weapons all over the body and caused injury and such grievous assault by the accused persons caused his death and thus accused committed murder of the person named Aboobacker Siddique as alleged in the F.I.R.

5. The learned counsel appearing for the petitioner and the learned Public Prosecutor were heard.

6. The learned counsel for the petitioner submits that there is no material to connect the petitioner with the crime, except mentioning his presence and that, there is no material against him and accordingly, he prays for anticipatory bail.

7. The learned Prosecutor opposing the bail applications submits that the petitioner is the kingpin in both crimes. Due to the dispute in some transactions dealing with foreign currency, in order to do away with all standing against the accused, it was the petitioner herein/A-17 who arranged a "quotation" to A-13. There is evidence of conspiracy being hatched by the petitioner herein. A-3, A-4, A-16 & A-17 had met on the date of the incident. There is evidence to show the presence of the petitioner. It is a case where the deceased was brutally attacked. The PostMortem Report suggests 38 serious injuries and the cause of death is shown as '*Traumatic brain injury and internal bleeding due to multiple blunt injuries inflicted, consistent with physical torture*'. The statements relied on by the prosecution also clearly reveals the role of the petitioner herein. Under such circumstances, it cannot be said that the offences alleged against the petitioner are not attracted. I am not inclined to grant anticipatory bail to the petitioner, also taking note of the fact that the incident took place on 24.6.2023 when the injured persons were abducted and the deceased succumbed to the injuries on 26.6.2023. Considering the key role played by the petitioner in a grave crime, I am of the view that the petitioner is not entitled to get anticipatory bail as it might adversely affect a proper investigation. It is also to be noted that the petitioner

was all along absconding. For these reasons, I do not think that this is a fit case to grant anticipatory bail and accordingly, these Bail Applications are dismissed.

© All Rights Reserved @ LAWYER E NEWS

*Disclaimer: Always compare with the original copy of judgment from the official website.