

(2023) 09 KL CK 0191
In the High Court Of Kerala
Case No : Bail Application No. 5396 Of 2023

Ansar	Vs	APPELLANT
State Of Kerala		RESPONDENT

Date of Decision : 25-09-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 174, 232, 313
Indian Penal Code, 1860 — Section 34, 109, 118, 120, 120(b), 201, 212, 294(b), 302, 341
Arms Act., 1959 — Section 27

Citation : (2023) 09 KL CK 0191

Hon'ble Judges : Mohammed Nias C.P., J

Bench : Single Bench

Advocate : V.John Sebastian Ralph, Vishnu Chandran, Shifna Muhammed Shukkur, Appu Babu, Geethu T.A., Apoorva Ramkumar, Ralph Reti John, Giridhar Krishna Kumar, Vishnumaya M.B., C.K.Suresh, P.K.Varghese, M.T.Sameer, Dhanesh V.Madhavan, Jerry Mathew

Final Decision : Dismissed

Judgement

Mohammed Nias C.P., J

1. This application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail.
2. Petitioner herein is arrayed as the fourth accused in S.C No. 260/2021 on the files of Additional Sessions Court-I, Thiruvananthapuram arising out of Crime No. 2414/2020 registered by Venjaramoodu Police Station for offences punishable under Sections 120 (b), 109, 294(b), 341, 302, 201, 118, 120, 212 r/w 34 of the Indian Penal Code, 1860 and Section 27 of the Arms Act. Eight other persons are charged along with him in the crime.
3. The prosecution case is that, on the basis of pre-existing rivalry between two political parties, on 30.08.2020, at about 11:30 pm, the accused murdered the deceased and injured another person. The case is infamously known as

Venjaramoodu double murder. The petitioner was arrested on 05.09.2020 and has been in judicial custody since then.

4. The learned counsel for the petitioner submits that even going by the prosecution case, the overt acts alleged against the petitioner and his role are minimal. Nothing is to be recovered from the possession of the petitioner, and there is no possibility of the trial starting in the near future as the charge is not yet framed. though the final report is filed, the CCTV visuals of the incident would clearly show that the petitioner was acting in private defence, and there are glaring contradictions in the case projected by the prosecution and the F.I.Statement. The petitioner filed CrI.M.C. No.2289/2023 to send the CCTV visuals being relied on by the prosecution for forensic analysis. Both the petitioner and his mother are suffering from serious heart ailments, and the petitioner is the family's sole breadwinner.

5. The learned Senior Public Prosecutor opposes the bail application and submits that the murder of two persons was committed and that the accused belonged to different political parties and they had hostility towards the deceased. The present case of twin murder appears to be the consequence of the clash and tension between two major political parties.

6. On going through the available materials, I find force in the submission of the learned counsel for the petitioner that the role of the petitioner herein, namely the 4th accused, is comparatively lesser. It is also to be noticed that he has been in judicial custody since 5-9-2020. There is no possibility of the trial starting in the near future, and the prosecution has cited 118 witnesses. The learned counsel argues that he has more than a strong defence to put forth in the trial. A counter case is pending at the committal stage. I also notice that accused Nos.5 and 6 in Crime No.2414/2020, who were arrested on 31.8.2020, were granted bail by order dtd. 12.6.2023 in BA 746/2023.

7. A report was called for from the court concerned as to the time required to dispose of the case. A report filed on 04.9.2023 states that the case has been posted to prepare the case calendar and schedule for evidence. It is also stated that a total of 184 witnesses are to be examined on the side of the prosecution and that a counter case at the instance of the accused is also pending in another court, and steps are to be taken to transfer the said case also. Given the complexity of the case, the substantial number of witnesses, possibility of a simultaneous trial with the counter case, all would show that the trial can be delayed. As stated above, the petitioner has been in custody since 05.9.2020. Taking all these into consideration, I am inclined to grant bail to the petitioner but on stringent conditions, as follows:-

i. The petitioner shall execute a bond for Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional court;

ii. The petitioner shall appear before the trial court on all posting dates without

fail, except specifically exempted by the trial court;

iii. The petitioner shall not enter the jurisdictional limit of Thiruvananthapuram District except to comply with condition No. (ii) or to comply with any court conditions;

iv. Petitioner shall not attempt to interfere with the investigation or to influence any witness in the aforementioned crime;

v. The petitioner shall not be involved in any other crime while on bail;

If any of the aforesaid conditions are violated, the investigating officer in Crime No.2414 of 2020 of Venjaramoodu Police Station, Thiruvananthapuram District, may file an application before the jurisdictional court for cancellation of bail.