
(2023) 06 KL CK 0010

In the High Court Of Kerala

Case No : Bail Application Nos. 268, 271, 281, 292, 337 Of 2023

M.S Mathew

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 05-06-2023

Acts Referred:

Citation : (2023) 06 KL CK 0010

Hon'ble Judges : Gopinath P, J

Bench : Single Bench

Advocate : R.Anil, B.Raman Pillai, Sujesh Menon V.B., Thomas Abraham, Thomas Sabu Vadakekut, Mahesh Bhanu S., Ressil Lonan, Gracious Kuriakose, P.Narayanan

Final Decision : Dismissed

Judgement

Gopinath P, J

1. These are applications for regular bail.
2. The petitioner is one and the same in all the bail applications. He is accused No.2 in all the cases out of which these bail applications arise.
3. The allegation against the petitioner is that a series of murders were committed by the 1st accused in the case using cyanide procured from the 3rd accused with the help and support of the 2nd accused.
4. The learned counsel appearing for the petitioner would submit that the petitioner has been in custody for a considerably long period. It is submitted that the trial of one of the cases has commenced while final reports have been filed in all other cases. It is submitted that the petitioner will not be able to mount a proper defence, if the petitioner is continued in custody. It is submitted that the 3rd accused from whom the petitioner allegedly procured cyanide has already been released on bail. It is submitted that there is no reason to continue the petitioner in custody and sufficient conditions can be imposed to ensure that the

petitioner does not flee from justice or influence any of the prosecution witnesses. He submits that the failure to grant bail is not at all justified in the facts of these cases and the allegations raised against the petitioner. It is submitted that the prosecution has not been able to establish that any cyanide allegedly procured from the 3rd accused for the use of the 1st accused had actually caused the death of several of the persons who were allegedly murdered by the 1st accused.

5. The learned Additional Director General of Prosecution would vehemently oppose the grant of bail. He submits that, if the petitioner is granted bail, there is every chance that the petitioner may abscond and further that several of the material witnesses of the prosecution would be compromised. He submits that this Court had considered the bail applications filed by the petitioner on an earlier occasion and for good and sufficient reason this Court had rejected the bail application. It is submitted that successive bail applications filed by the petitioner were also rejected by this Court and there is no change of circumstances warranting the grant of bail to the petitioner. The learned Additional Director General of Prosecution would submit that the 3rd accused is HIV positive person and this was one of the considerations for granting of bail to the 3rd accused. He also submits that the role ascribed to the 3rd accused is completely different from the role ascribed to the petitioner.

6. Having heard the learned counsel appearing for the petitioner and the learned Additional Director General of Prosecution for the State, I am of the view that the petitioner has not made out any case for grant of bail. The petitioner, allegedly, procured cyanide from the 3rd accused to enable the 1st accused to carry out a series of murders. The allegations, if true and are proved, are extremely serious and shocking. The fact that the bail has been granted to the 3rd accused is no reason to grant bail to the petitioner. As rightly pointed out by the learned Additional Director General of Prosecution, the role ascribed to the petitioner is completely different from the role ascribed to the 3rd accused. The petitioner is alleged to have supplied the cyanide to the 1st accused knowing fully well that the 1st accused had intentions of using the same for committing a series of murders. The fact that the petitioner should not be denied a fair trial does not mean that the Court should grant bail, taking into consideration the long period of incarceration. The gravity of the offence alleged is something that the Court will always keep in mind while considering the bail application. Moreover, as already noticed above, there appears to be no change of circumstances warranting this Court to take a different view in the matter of grant of bail to the petitioner. It is settled law that successive bail applications can be entertained only if there is a substantial change of circumstances. For all these reasons, these bail applications fail and they are accordingly dismissed.