

(2022) 01 KL CK 0154
In the High Court Of Kerala
Case No : Bail Application No. 274 Of 2022

Nisha Suresh

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 20-01-2022

Acts Referred:

Indian Penal Code, 1860 — Section 34, 302

Citation : (2022) 01 KL CK 0154

Hon'ble Judges : Gopinath P, J

Bench : Single Bench

Advocate : Sijo Pathaparambil Joseph, Noushad K.A

Final Decision : Dismissed

Judgement

Gopinath P, J

1. The petitioner is the accused in Crime No.1761/2021 of Kanjirapally Police Station, Kottayam District alleging commission of offence under Section

302 read with Section 34 of the Indian Penal Code.

2. The allegation against the petitioner is that she along with her elder child who aged only 15 caused death of her new born baby who was her 6th

child by dropping the baby in a bucket of water.

3. The learned counsel for the petitioner submits that the allegations are totally false and that the death of the baby occurred on account of an

accident. It is submitted that the petitioner is suffering from multiple handicaps and is bedridden for the last 10 years. It is submitted that she had

requested her elder child who is aged 15 years to bathe the new born baby and owing to the inexperience of her daughter, the new born baby

accidentally died while it was being bathed. It is submitted that this is clear from

the fact that the petitioner did not made any attempt whatsoever to conceal the body of the baby in any manner.

4. I have heard the learned Public Prosecutor also. The learned Public Prosecutor submits that as per the statements recorded from the neighbours

and other people in the locality, the petitioner had hidden the fact of her pregnancy to everyone as she was ashamed that she was pregnant with her

6th child. It is submitted that the new born baby was apparently an unwanted child and the child was killed purposefully at the instance of the

petitioner. It is submitted that grant of bail to such a person may not be conducive as the safety of other children has also to be ensured.

5. Having regard to the facts and circumstances of the case and considering the fact that the petitioner is stated to be suffering from multiple disability

and the fact that she has been in custody from 10-12-2021 and considering the fact that her continued detention may not be necessary for the purpose

of any investigation, I am opinion that the petitioner can be granted bail subject to conditions.

In the result this bail application is allowed. It is directed that the petitioner shall be released on bail, subject to the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction

of the jurisdictional Court;

(ii) The Petitioner shall report before the Investigating officer in Crime No.1761/2021 of Kanjirapally Police Station as and when summoned to to do;

(iii) The petitioner shall not attempt to interfere with the investigation, influence or intimidate any witness in Crime No.1761/2021 of Kanjirapally Police Station;

(iv) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the Investigating officer in Crime No.1761/2021 of Kanjirapally Police Station may file an application

before the jurisdictional Court for cancellation of bail.