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(2023) 02 KL CK 0242

In the High Court Of Kerala

Case No : Bail Application No. 325 Of 2023

Priyanlal C.P. @ Chinjilu i — APPELLANT

Vs

State Of Kerala — RESPONDENT

Date of Decision : 23-02-2023

Acts Referred:
Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 302, 323, 324, 341

Citation : (2023) 02 KL CK 0242

Hon'ble Judges : A.Badharudeen, J

Bench : Single Bench

Advocate : P.Chandy Joseph, C.K.Vidyasagar, T V Neema

Final Decision : Allowed

Judgement

A.Badharudeen, J

1. This is an application for regular bail filed under Section 439 of the Code of Criminal Procedure, by the petitioner, who is the third accused in Crime No.731 of 2022 of Kanjar Police Station, Idukki where, the prosecution alleges commission of offences punishable under Sections 341, 323, 324 and 302 r/w 34 of the Indian Penal Code.

2. Heard the learned counsel for the petitioner as also the learned Public Prosecutor.

3. I have perused the Case Diary materials produced by the learned Public Prosecutor.

4. The prosecution case, as could be read out from the case diary materials placed by the learned Public Prosecutor, is that at, at 10.30 p.m. on 03.12.2022, accused in this case assaulted the defacto complainant near the house of one Manganattu Raghavan, after exchange of words between them. The specific case is that, Sam(deceased) pushed down the first accused. Then the third accused/

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the petitioner herein caught hold on Sam and at this juncture, the first accused caused stab injuries on his neck and other parts of the body by using a knife. The further allegation is that, the second accused brandished a knife whereby, one Kishore sustained injury on his left finger. Although Sam was given medical attendance at Chazhikkad Hospital, Thodupuzha, he succumbed to injuries. Thus, the above offences are alleged to be committed.

5. While pursuing regular bail to the petitioner who is the third accused, who has been in custody from 04.12.2022, the learned counsel for the petitioner would submit that the petitioner is innocent and the overt act at his instance is much less. It is submitted further that, it was the first accused who caused one stab injury and the same resulted in the murder of Sam. Highlighting the petitioner's custody from 04.12.2022 and the progress of investigation, the learned counsel for the petitioner sought the relief of regular bail with offer to co-operate with the investigation and trial.

6. Whereas the learned Public Prosecutor specifically opposed bail and highlighted that in the post-mortem certificate, eight anti-mortem injuries were noted and the same would include injuries caused by the petitioner also, apart from the stab injuries caused by the first accused. Further it is submitted that the petitioner herein is the person who restrained the above said Sam facilitating the first accused to cause fatal injuries on him. Therefore, the petitioner's complicity is on par with the other accused. As such, he is not liable to be released on regular bail at this stage, since the investigation is on the midway.

7. I have perused the case diary, the post-mortem certificate and the relevant materials. In this matter, one Sam died in consequence of assault at the instance of accused Nos.1 to 3. The specific allegation is that accused Nos.1 to 3, after sharing common intention, assaulted Sam with intention to murder him and the third accused facilitated the first accused to cause fatal injuries on the neck of the above said Sam and in consequence thereof, he died. Thus, the prosecution case is well made out prime facie. It is true that the petitioner has been in custody from 04.12.2022 onwards and no criminal antecedents reported insofar as the petitioner is concerned.

8. Having noticed the above facts along with the progress of investigation, I am inclined to release the petitioner on bail on conditions.

In the result, this petition stands allowed and he is released on bail on the following conditions:

i. The petitioner shall be released on bail on his executing bond for Rs.50,000/- (Rupees Fifty Thousand Only) with two solvent sureties, each for the like amount to the satisfaction of the Jurisdictional court concerned.

ii. The petitioner shall not intimidate the witnesses or tamper with evidence. He shall co-operate with the investigation and shall be available for trial.

iii. The petitioner shall appear before the Investigating Officer as and when

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directed. He shall meet the Investigating Officer on every Monday in between 10.00 a.m. to 1.00 p.m. for a period of six weeks.

iv. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of this case, so as to dissuade him from disclosing such facts to the court or to any police officer.

v. The petitioner shall surrender his passport, if any, within 7 days from the date of his release, before the jurisdictional court. If he has no passport, he shall file an affidavit in this regard on the date of execution of the bond or within 3 days thereafter.

vi. The petitioner shall not involve in any other offence during the currency of bail and any such event, if reported or came to the notice of this court, the same shall be a reason to cancel the bail hereby granted.

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