
(2023) 11 KL CK 0044
In the High Court Of Kerala
Case No : Bail Application No. 4960 Of 2023

Sajeeb @ Velli Sajeeb

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 02-11-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 109, 118, 120, 120(b), 201, 212, 294(b), 302, 307, 324, 341
Arms Act, 1959 — Section 27

Citation : (2023) 11 KL CK 0044

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

Bench : Single Bench

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

Final Decision : Dismissed

Judgement

Mohammed Nias C.P.J

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail.
2. The Petitioner herein is arrayed as the first 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 accused along with him in the crime.
3. The prosecution case is that, based on a pre-existing rivalry between two political parties, on 30.08.2020, at about 11:30pm, the accused murdered the deceased and injured another person, who also succumbed to the injuries. The

case is infamously known as the Venjaramoodu double murder. The petitioner was arrested on 30.08.2020 and has been in judicial custody since then.

4. Learned counsel for the petitioner, Sri. John.S. Ralph argues that the petitioner is innocent of the charges levelled against him. He argues that the petitioner had only exercised his right of private defence when he was attacked, for which a countercase has been registered, and committal proceedings are going on. The petitioner was arrested on 30.08.2020, and since then, he has been in custody. Even the documents that are to be given to him are not supplied, and as an under-trial prisoner, the petitioner is put to all kinds of difficulties in defending his case properly. It is also pointed out that some of the accused are already released on bail and that A2 and A3 have already been convicted for other crimes and are undergoing sentence. The petitioner also points out that even according to the report of the Court concerned, the trial will take a long time as 184 witnesses are cited in the case apart from the number of pending cases.

5. Learned Public Prosecutor opposing the bail application submits that the petitioner is the mastermind of having arranged all others, he led the conspiracy to commit a double murder in a pre-planned manner with a motive, and there is clear proof of the conspiracy hatched by the first accused. There is ample proof for the charges levelled against him, and he also has two other antecedents, one under Section 324 IPC and another under Section 307 IPC. Given the heinous nature of the offence, the petitioner may not be released on bail. The prosecution does not cause any delay in the trial. It is also pointed out that the presence of the accused itself can create havoc in the area; witnesses are also of the same area, and the trial will surely be obstructed if the petitioner is released on bail. He also pointed out there would be a threat to the life of the petitioner if he is released on bail as a double murder was committed by him out of political rivalry.

6. The defacto complainant, who appeared for the wives of the deceased, submitted that the accused has criminal antecedents, he is politically influential, the witnesses are the common people of the area who will certainly be influenced or intimidated, the CCTV footage proves the charge alleged against the petitioner and at least till the main witnesses are examined, the petitioner should not be released on bail, as a fair trial is likely to be adversely affected.

7. It is trite that a long period of detention in jail, by itself, is not sufficient ground to grant bail in a case where the accusation of committing double murder. The seriousness of the offence, the character of evidence and circumstances, the impact that the release may make on the prosecution witnesses, and the resultant impact on society are all relevant considerations. The concept of liberty requires the citizens to be responsible and not to disturb the tranquillity and safety which every citizen desires. Therefore, a balance has to be struck between individual liberty with that of society as, after all, a crime is an action deemed by law to be harmful to society in general, even though its immediate victim is an individual. Order is the basic need of any organised, civilised society, and any

attempt to disturb that order affects the society and the community. In cases where the very presence of the accused at large would intimidate the witnesses, or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, bail will be refused. The antecedents of the accused also assume significance.

8. The contention of the learned counsel for the petitioner that he can be prevented from entering the district in which the crime is committed cannot be a reason to grant bail as the suitability of the conditions to be imposed arises only after the decision to grant bail is taken. The further argument of the learned counsel for the petitioner that for the accused to defend properly, he must be released on bail also cannot be accepted. If the said argument is to be accepted, then logically, in every case, bail has to be granted.

9. Considering the above propositions in the backdrop of the facts of the instant case, doubtless, the charge against the petitioner is indeed grave of having committed a double murder out of political rivalry. The materials on record also lent credence to the argument of the learned Public Prosecutor of the conspiracy hatched and the motive of the crime, all of which leads to the prima facie conclusion that the petitioner was the mastermind behind the crime. The argument of the learned counsel for the petitioner that long incarceration should be a reason for granting him bail cannot be accepted in every case given the severity of the crime and also the severity of the punishment if, ultimately, the charges are proved. That apart, the witnesses being the common people of the locality, who can be intimidated or influenced, and the threat to the life of the petitioner himself as apprehended by the prosecution, are all factors against the petitioner for grant of bail. The antecedents of the accused read alongside the statements of the witnesses ex facie supports the prosecution version. The contention of the learned counsel for the petitioner that he can be prevented from entering the district in which the crime is committed cannot be a reason to grant bail as the suitability of the conditions arises only after the decision to grant bail is taken. The further argument of the learned counsel for the petitioner that for the accused to defend properly, he must be released on bail also cannot be accepted. If the said argument is to be accepted, then logically, in every case, bail has to be granted.

10. Having held so, the petitioner cannot be detained for long as an under-trial prisoner. The report called from the Court below as to the probable time for trial shows that there are 184 witnesses to be examined on the side of the prosecution. Under such circumstances, there will be a direction to the trial court to expedite the trial and to take all steps to dispose of the case within eight months from today. In the event of the case not being disposed of within the said time and if the accused is not responsible for the delay in the progress of the trial, it will be open to the petitioner to apply for bail before the Court below.

Subject to the above, the bail application is dismissed.