

(2020) 12 KL CK 0080
In the High Court Of Kerala
Case No : Bail Application No. 8090 Of 2020

Santha And Anr	Vs	APPELLANT
State Of Kerala And Anr		RESPONDENT

Date of Decision : 04-12-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 34, 306, 498A
Evidence Act, 1872 — Section 113A

Citation : (2020) 12 KL CK 0080

Hon'ble Judges : P.V. Kunhikrishnan, J

Bench : Single Bench

Advocate : Santhosh P. Poduval, R. Rajitha, Chithra.S.Babu, R.N. Sandeep, Renjith. T.R.

Final Decision : Disposed Of

Judgement

1. This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.
2. Petitioners are the accused in Crime No.1402/2020 of Kunnamkulam Police Station. The above case is registered against the petitioners alleging offences punishable under Sections 306 and 498A r/w 34 IPC.
3. The prosecution case is that the wife of the 2nd accused committed suicide on 26.9.2020. It is alleged that the deceased committed suicide because of the mental and physical harassment from the petitioners. The 1st petitioner is the mother-in-law of the deceased and the 2nd petitioner is the husband.
4. Heard the learned counsel for the petitioners and the learned Public Prosecutor.
5. The counsel for the petitioners submitted that the deceased was having some

mental stress in connection with the abortion of her pregnancy on two occasions. The counsel submitted that the suicide is because of that mental depression. The counsel submitted that the allegation against the petitioners are not correct. The counsel submitted that the 1st petitioner is a lady aged 64 years and the petitioners are ready to abide any condition, if this Court grant them bail.

6. The learned Public Prosecutor opposed the bail application. The Public Prosecutor submitted that there are allegations against the petitioners which will attract the offence under Section 498A IPC. If there is cruelty as defined under Section 498A IPC is made out, the offence under Section 306 IPC will also attract in the light of Section 113A of the Evidence Act. The Public Prosecutor submitted that the custodial interrogation of the petitioners are necessary.

7. After hearing both sides, I think, the 1st petitioner can be released on bail under Section 438 Cr.P.C. She is a lady and she is the mother-in-law of the deceased. But as far as the 2nd petitioner is concerned, I think, he is not entitled the orders under Section 438 Cr.P.C. Serious allegations are there against him. He can surrender before the investigating officer and co-operate with the investigation. I don't want to make any observation about the merit of the case. Considering the entire facts and circumstances of the case, the bail application of the 1st petitioner is allowed with the following directions.

1. The 1st petitioner shall appear before the Investigating Officer within ten days from today and shall undergo interrogation.

2. After interrogation, if the Investigating Officer propose to arrest the 1st petitioner, she shall be released on bail executing a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer concerned.

3. The 1st petitioner shall appear before the Investigating Officer for interrogation as and when required. The 1st petitioner shall co-operate with the investigation and shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

4. The 1st petitioner shall not leave India without permission of the jurisdictional Court.

5. The 1st petitioner shall not commit an offence similar to the offence of which she is accused, or suspected, of the commission of which she is suspected.

6. The 1st petitioner shall strictly abide by the various guidelines issued by the State Government and Central Government with respect to keeping of social distancing in the wake of Covid 19 pandemic.

7. If any of the above conditions are violated by the 1st petitioner, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court.

8. At this stage, the learned counsel for the petitioners submitted that the 2nd petitioner will surrender before the investigating officer and will co-operate with the investigation. Therefore, the bail application of the 2nd petitioner is disposed of with the following directions:

I) The 2nd petitioner shall surrender before the investigating officer within 10 days from today.

II) If the 2nd petitioner surrendered before the investigating officer within 10 days from today, the investigating officer will interrogate the petitioner

and if he is arrested, he will be produced before the jurisdictional Court forthwith;

III) When the 2nd petitioner is produced in court and the petitioner files a bail application before the Court concerned after giving prior notice to the

Prosecutor concerned, the Court will consider the bail application on merits preferably on the date of filing of the same itself.