
(2023) 05 KL CK 0191
In the High Court Of Kerala
Case No : Bail Application No. 3015 Of 2023

Shyju S.L @ Shiju

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 25-05-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 302, 363, 395

Citation : (2023) 05 KL CK 0191

Hon'ble Judges : Ziyad Rahman A.A, J

Bench : Single Bench

Advocate : C.D.Johny, C.C.Anoop, R.Anas Muhammed, Shamnad, Seetha S

Final Decision : Dismissed

Judgement

Ziyad Rahman A.A, J

1. This is an application filed u/s 439 of Code of Criminal Procedure seeking regular bail.
2. The petitioner is the accused in Crime No.147 of 2023 of Pandalam Police Station, which was registered for the offences punishable under Section 302 IPC.
3. The prosecution case is as follows:

Deceased was living separately from the husband for the last 4 years. During the said period, the deceased developed a relationship with the accused and they started living together. However, after some time, their relationship got strained as the accused allegedly has another relationship with another woman. During the said relationship between the parties, there occurred a quarrel between them on 10.02.2023 and the accused beaten the deceased to death by using a stick. Crime was registered in such circumstances. As part of the investigation the petitioner was arrested on 15.02.2023. This application for regular bail is submitted by the petitioner in such circumstances.

4. Heard Sri.C.C.Anoop, learned counsel for the petitioner and Smt.Seetha, learned Public Prosecutor for the State.

5. The learned counsel for the petitioner submits that the petitioner is innocent of all the allegations. According to him, it is also submitted that the petitioner has been in custody since 15.02.2023 and the investigation is completed. Therefore, there is no purpose in keeping the petitioner under detention any more. He is prepared to abide by any condition imposed by this Court and shall cooperate with the investigation.

6. On the other hand, the learned Public Prosecutor would oppose the aforesaid application. It is pointed out that, the partner of the petitioner in living-in-relationship was murdered by the petitioner, after consuming alcohol and there are specific materials available on record indicating the same. Even though final report is submitted, chances of the petitioner influencing the witnesses are highlighted by the learned Public Prosecutor. Therefore, release of the petitioner on bail is opposed by the learned Public Prosecutor.

7. Learned Public Prosecutor also submitted that the petitioner is involved in another crime registered as Crime No.495 of 2022 of Elamakkara Police Station for the offences punishable under Sections 363 and 395 IPC. The release of the petitioner was opposed in such circumstances.

8. I have gone through the records and the contentions put forward by both the sides. It is true that there are certain allegations against the petitioner. However, specific case of the petitioner is that, incident occurred during the course of an altercation and under no circumstances it can be treated as a pre-planned one. Petitioner points out that, as the final report is already filed there is no purpose in continuing the detention. After perusing the materials placed on record and also the fact that the petitioner is in custody since 15.02.2023, I find some force in the contention put forward by the learned counsel for the petitioner. It is true that the petitioner was also involved in another crime. However, taking into account the fact that the final report in this case is already submitted and the trial of the case is likely to take some time, I do not find any fruitful purpose in continuing the incarceration of the petitioner. Therefore, the petitioner can be released on bail subject to stringent conditions to ensure that he is not interfering with the trial by influencing or intimidating the witnesses.

In the result, the application is allowed and the petitioner is directed to be released on bail subject to following conditions:-

(i) The petitioner shall be released on bail on executing a bond for Rs. 1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Magistrate/Court.

(ii) The petitioner shall fully co-operate with the investigation.

(iii) The petitioner shall appear before the investigating officer between 10.00 a.m and 11.00 a.m on every Monday for a period of two months.

(iv) The petitioner shall also appear before the investigating officer as and when required by him.

(v) The petitioner shall not commit any offence of similar nature while on bail.

(vi) The petitioner shall not make any attempt to contact any of the prosecution witnesses, directly or through any other person, or in any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

(vii) The petitioner shall not leave State of Kerala without the permission of the trial Court.

In case of violation of any of the above conditions, the jurisdictional Magistrate/ Court shall be empowered to consider the application for cancellation of bail, if any, and pass appropriate orders in accordance with the law.