
(2021) 03 KL CK 0274
In the High Court Of Kerala
Case No : Bail Application No. 2465 Of 2021

Varsha V

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 24-03-2021

Acts Referred:

Indian Penal Code, 1860 — Section 304

Citation : (2021) 03 KL CK 0274

Hon'ble Judges : Shircy V, J

Bench : Single Bench

Advocate : P.K. Subhash, C.K. Suresh

Final Decision : Allowed

Judgement

1. Application for regular bail.
2. The petitioner is the accused in Crime No. 164 of 2021 of Hosdurg Police Station registered for the offence punishable under Section 304 of Indian Penal Code.
3. The petitioner has been in custody since 24.02.2021.
4. The prosecution allegation is that this petitioner, the mother of two minor children, on 11.02.2021, with the intention to commit suicide, bought ice cream and mixed poison in the ice cream and consumed the same. She fell unconscious and was lying in the bed room. Her son aged only 4 ½ years, who came to the room, on seeing the ice cream, consumed the same. The petitioner had kept the ice cream in two separate containers. Poison was mixed only in the ice cream kept in one container. After sometime, the sister of the petitioner, who came to the room, had consumed the ice cream mixed with poison without knowing that poison was mixed in the ice cream. She shared the ice cream with the minor child also. In the night the child developed some uneasiness and shifted to the hospital, but he died on 12.02.2021 and later she disclosed the fact that she had mixed poison in the ice cream when her husband questioned her. But by that

time, the sister also succumbed to death and thereby she committed culpable homicide not amounting to murder.

5. The learned counsel for the petitioner submitted that the petitioner is innocent and she was not having any intention to commit such an offence. But she is undergoing incarceration for the last one month and hence the application.

6. The learned Public Prosecutor would submit that the husband of the petitioner, who is employed away in fact entrusted an amount of Rs.75,000/- to the petitioner to utilize the same for construction of a residential building. But somehow or other, the petitioner had spent the same. So, she was under great stress and was afraid whether the fact that she spent the money for her personal use would be questioned by her husband. So she decided to commit suicide and for the same she made certain arrangements without the knowledge of the other family members and thus the unfortunate incident had happened. It is also submitted that the investigation is well in progress.

7. It is a fact that the petitioner is having another child aged only 1 ½ years to be taken care of as the mother. The investigation of the case is well in progress. It is revealed from the records that she had only the intention to consume poison in order to commit suicide. But she was not having the apprehension that the child or her sister would consume the same and such a tragedy would happen in her family. Whatever that be, considering the period of detention as well as the present stage of investigation, I think that further detention of this petitioner may not be required for the investigating agency to proceed with the investigation of the case. Moreover, her child aged only 1 ½ years is being looked after by her aged mother. Taking into consideration all these facts, I am inclined to grant bail to this petitioner.

Hence, this application is allowed and regular bail is granted to the petitioner subject to the following conditions:

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

(ii) The petitioner shall appear before the Investigating Officer for interrogation as and when required by him, in writing.

(iii) The petitioner 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 or tamper with the evidence.

(iv) The petitioner shall not commit any offence while on bail.

In case of violation of any of the above conditions, the learned Magistrate is empowered to cancel the bail in accordance with the law.