

Sambath Kumar Vs. State of Kerala

Sambath Kumar Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1010000

Court : Kerala

Decided On : Jan-04-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Sambath Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.BHAVADASAN FRIDAY, THE 4TH DAY OF JANUARY 2013 14TH POUSHA 193 Bail Appl..No. 9638 of 2012 (D) ----- IN CRIME NO.1450/2012 OF KASABA POLICE STATION, PALAKKAD AND ORDER DATED 22 11-2012 IN CRMP.6166 OF 2012 ON THE FILE OF the JUDICIAL FIRST CLASS MAGISTRATE COURT - I, PALAKKAD AND THE ORDER DATED 7 12-2012 IN CRMP.3226/2012 of SESSIONS COURT, PALAKKAD. ACCUSED(S)/ACCUSED: ----- SAMBATH KUMAR, AGED 4 YEARS, S/O.VELAYUDHA PILLA, KOPPANUR, ELAPULLY, PALAKKAD. BY ADV. SRI.BINOY VASUDEVAN. COMPLAINANT(S): -----
1. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE KASABA POLICE STATION, PALAKKAD-678 101. BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04-01-2013, THE COURT ON THE

SAME DAY PASSED THE FOLLOWING: Bail Appl..No. 9638 of 2012 (D)
APPENDIX PETITIONER'S ANNEXURES :- ANNEXURE A : CERTIFIED COPY
OF THE ORDER DATED 7 12-2012 IN CRL.M.P.NO.3226/2012 ON THE FILE OF
THE SESSIONS COURT, PALAKKAD. RESPONDENT'S EXHIBITS : NIL. //TRUE
COPY// P.A TO JUDGE amk P.BHAVADASAN, J.

----- BA No.9638 of 2012

----- Dated this the 4th day of January 2013

Order The petitioner stands accused of having committed the offence punishable under S.377 IPC. The prosecution allegation is that the petitioner lured a minor girl into the grocery shop run by him and subjected her to sexual assault. The petitioner would say that he is totally innocent and has been implicated with ulterior motives. It is pointed out by him that even though the incident is alleged to have been occurred on 12.11.2012, the complaint is laid only on 15.11.2012. According to him, that is sufficient to show the hollowness of the complaint. He has been in custody from 18.11.2012 onwards. Therefore, according to the learned counsel for the petitioner, a good part of the investigation must have been completed by now and his continued custody is unnecessary. He, therefore, seeks bail.

2. The learned Public Prosecutor submitted that due to the act committed by the petitioner, the child was mentally depressed and it took months for her to recover from BA 9638/12 2 the depression. It is also pointed out that the investigation is not yet complete. He made available the CD for perusal.

3. The claim of the petitioner that he is totally innocent, cannot be accepted in view of the materials available in the CD. But, the fact remains that he has been in custody from 18.11.2012 onwards and therefore, a good part of the investigation must have been completed by now. So, his continued custody is unnecessary. The apprehension expressed by the Investigating Agency that the petitioner is likely to influence the witnesses, if released on bail, can be taken care of by imposing stringent conditions. The application is accordingly allowed and the petitioner shall be released on bail subject to the following conditions :

1. The petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) with two solvent sureties for the like sum each to the satisfaction of the JFCM-I, Palakkad.
2. The learned Magistrate shall ensure the identity of the sureties and the veracity of the tax receipts produced by the sureties, before granting bail to the petitioner.
3. The petitioner shall appear before the Investigating Officer on BA 9638/12 3 every Wednesday between 9 am and 11 am till final report is filed.
4. The petitioner shall not enter the district of Palakkad for a period of three months from today except for complying with Condition NO.3 mentioned above.
5. The petitioner shall not tamper or attempt to tamper with the evidence and influence or try to influence the witnesses.
6. If any of the conditions is violated, the bail granted shall stand cancelled and the learned JFCM concerned on being satisfied of the said fact, may take such action as available to him in law. P.Bhavadasan, Judge sta BA 9638/12 4