

Varun Valsan Vs. State of Kerala

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Court : Kerala

Decided On : Jan-27-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Varun Valsan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN MONDAY, THE 27TH DAY OF JANUARY 2014 7TH MAGHA, 1935 CrI.MC.No. 761 of 2014 () -----
(AGAINST THE

ORDER

IN CRL.M.P.NO.2/2014 IN CRL.M.C.NO. 1447/2013 OF SESSIONS COURT, THALASSERY, DATED 701/2014) -----
PETITIONER/ACCUSED NO.46: ----- VARUN VALSAN, AGED 22 YEARS, S/O.VALSALAN, VARSHA HOUSE, ELAYAVOOR SOUTH, NEAR SOUTH L.P.SCHOOL, ELAYAVOOR, MUNDAYAD, KANNUR DISTRICT. BY ADV. SRI.I.V.PRAMOD RESPONDENT/STATE: -----
STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. PIN-682 031. BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 2701-2014, THE COURT

ON THE SAME DAY PASSED THE FOLLOWING: sts CrI.MC.No. 761 of 2014 ()

----- APPENDIX PETITIONER(S)' ANNEXURES:
----- ANNEXURE A1- A TRUE COPY OF THE

ORDER

IN CRL.M.C.NO.1447/2013 DATED 22.11.2013 OF SESSIONS COURT,
THALASSERY. ANNEXURE A2- A TRUE COPY OF THE VISA. ANNEXURE A3-
A TRUE COPY OF THE

ORDER

IN CRL.M.P.NO.2/14 IN CRL.M.C.1447/13 DATED 7.1.2014 OF SESSIONS
COURT, THALASSERY. ANNEXURE A4- A TRUE COPY OF THE

ORDER

IN B.A.NO.7478/13 DATED 12.11.2013. ANNEXURE A5- A TRUE COPY OF THE

ORDER

IN B.A.NO.7785/13 DATED 22.11.2013. ANNEXURE A6- A TRUE COPY OF THE

ORDER

IN B.A.NO.7737/13 DATED 21.11.2013. RESPONDENT(S)' ANNEXURES: NIL
/TRUE COPY/ P.A.TO.JUDGE sts K. Ramakrishnan, J.

===== CrI.M.C.No.761 of 2014
===== Dated this, the 27th day of January, 2014.

ORDER

This is an application filed by accused No.46 in Crime No.1637/13 of Kannur Town
Police Station to release his passport under Section 482 of Code of Criminal
Procedure.

2. It is alleged in the petition that the crime was registered as a suo motu crime
by Kannur Town Police Station as Crime No.1637/13 alleging offences under
Sections 120B, 143, 147, 148, 341, 353, 332, 324, 307 read with Section 149 of
Indian Penal Code and also Section 3(1) of Prevention of Destruction of Public
Property Act. The allegation was that the petitioner along with others formed

themselves in to an unlawful assembly and attacked the Chief Minister of Kerala when he came to Kannur in connection with his programme and caused damage to the public property. It is also alleged in the petition that he was granted bail by the Sessions Court, Thalassery with conditions inter alia to surrender his passport and accordingly he had surrendered his passport as well and released on bail. Now, he received a job in Gulf country and in order to attend his job, the passport is required. It is not known as to how much time it will take for completion of the Crl.M.C.No.761 of 2014 :

2. : investigation and also completion of the trial. The application filed by him for this purpose before the Sessions Court, Thalassery as Crl.M.P.No.2/2014 was dismissed by the Additional Sessions Judge who was in charge of the Sessions Judge that time on the ground that the investigation is not over and several accused are yet to be arrested and if the passport is released the investigation is likely to be affected. It is further alleged in the petition that for some of the accused persons in the same crime, bail was granted even without such a condition by this court. If the passport is not released to him is likely to lose his employment and he is the only bread winner of his family. He prayed for allowing the application.

3. Heard the Counsel for the petitioner and Learned Deputy Director of Prosecution and State Public Prosecutor.

4. The counsel for the petitioner submitted that the investigation is not over and even he is likely to be deleted from the party array during the investigation as there is no proper evidence to prove his identity as the person involved in the commission of the crime. Further if he is not allowed to go to Gulf he is likely to lose his employment.

5. The application was opposed by the State public Crl.M.C.No.761 of 2014 :

3. : prosecutor on the ground that the investigation is not over and if his passport is released, his presence could not be procured for trial and the disposal of the case will be delayed.

6. It is an admitted fact that the present petitioner was arrayed as 46th accused in Crime No.1637/13 of Kannur Town Police Station and he was granted bail by the Sessions Court, Thalassery with conditions inter alia to surrender his passport if any and accordingly he had surrendered the passport and he was released on bail. Now, the petitioner has produced Annexure A2-employment visa issued from United Arab Emirates, Ministry of Interior, General Directorate of Residence and Foreigners Affairs stating that he has been given an employment visa and the visa is valid up to 22.02.2014 and he will have to join his employment there before that day. If the passport is not released to him, he is likely to lose his employment. The investigation is not over and it is not known as how much time it will take for the investigating agency to complete the investigation and file a final report and it is also not known as to how much time it will take for the trial of the case to be completed as well. So, it is not appropriate to keep the accused in India itself denying his right to get employment CrI.M.C.No.761 of 2014 :

4. : abroad and that will amount to affecting his right to employment as such and consequently affect his right for life as guaranteed under the constitution. Further, it is seen that his presence is not required in connection with the investigation as such because he has been arrayed as an accused already and released on bail after considering the circumstances and his alleged role in the commission of the crime. So considering the circumstances, I feel that it is not proper to keep his passport till the trial of the case is over. But at the same time to procure his presence, some condition has to be imposed as well. So, I feel that the application can be allowed and direction can be given to the Judicial First Class Magistrate Court No-I, Kannur to release the passport of the petitioner and permit him to go abroad to join his employment on condition that he shall deposit an amount of Rs.15,000/- as security for procuring his presence at the time of trial or during committal proceedings. So the application is allowed with the above direction and also on further condition that he shall file an undertaking in the form of an affidavit before the concerned Magistrate Court that he will appear before the court as and when his presence is required and co-operate with the CrI.M.C.No.761 of 2014 :

5. : investigation and the trial of the case. He is also directed to give his address for contact in his employment place to the investigating officer within one month

from the date of his joining in his employment in abroad. If he fails to comply with this condition, the bail granted to him itself is liable to be cancelled. With the above direction and observation, the application is allowed. Communicate this order to the concerned court immediately. Sd/- K.Ramakrishnan, Judge. Bb [True copy]
P.A to Judge

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