

Benoy Vs. State of Kerala

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Court : Kerala

Decided On : May-16-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Benoy

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN FRIDAY, THE 16^H DAY OF MAY 2014 26TH VAISAKHA, 1936 Bail Appl..No. 3062 of 2014 ----- CRIME NO. 2010/2013 OF GURUVAYOOR POLICE STATION , THRISSUR ... PETITIONER/4TH ACCUSED: ----- BENOY, AGED 31 YEARS, S/O. PARAMESWARAN, PUTHUMANASSERRY HOUSE, BRAHMAKULAM DESOM, THAICKAD VILLAGE, THRISSUR DISTRICT. BY ADVS. SMT. MEREENA JOSEPH SMT. P.M. FAREETHA BANU RESPONDENT: ----- STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, ON BEHALF OF THE SUB INSPECTOR OF POLICE, GURUVAYOOR POLICE STATION. BY PUBLIC PROSECUTOR SRI. C. RARSHEED THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16-05-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss K.RAMAKRISHNAN, J.

Dated this the 16th day of May, 2013.

ORDER

1This is an application for bail filed by the 4th accused in SC No.122 of 2014 at the file of the Additional Sessions Court- IV (Fast Track-II), Thrissur under Section 439 of the Code of Criminal Procedure. 2.The case of the prosecution in nutshell was on 04.11.2013, at about 6:30 p.m, while the deceased was riding on a two wheeler the accused persons formed themselves into an unlawful assembly with deadly weapons and accused Nos.1 to 4 chased him in two motor cycles and assaulted him with iron rod and sword and caused grievous injuries who later succumbed to the injuries and thereby all of them have committed the offence punishable under Sections 143, 147, 148, 341, 302 and 120(B) read with Section 149 of the Indian Penal Code. 3.Counsel for the petitioner submitted that the petitioner has not committed any offence and he is innocent of the same and he has been falsely implicated in the case. He is in jail from 11.11.2013 onwards. The investigation of the case is over and final report has been filed and it is now pending before the Additional Sessions Court-IV (Fast Track-II) as S.C1222014. All other accused persons except the petitioner were granted bail in that case. So she prayed for allowing the application. 4.The application was opposed by the Public Prosecutor on the ground that if he released on bail he is likely to influence the witnesses and the bail application filed by the petitioner before this Court as B.A.No.2235/14 was dismissed. 5.Heard both sides and perused records. 6.It is true that in respect of the death of the deceased in this case, a crime was registered as Crime No.2010 of 2013 of Guruvayoor Police Station against several accused persons including the present petitioner alleging offences including offence under Section 302 of the Indian Penal Code. It is also an admitted fact that the petitioner was arrested on 11.11.2013 and he is in jail from that day onwards. It is true, that this court has dismissed the application filed by the petitioner for bail as Bail Application No.2235 of 2014 as per order dated 31.03.2014 and directed the Sessions Court to expedite the trial. But it is seen from the report of the 4th Additional Sessions Judge that accused Nos. 1 and 3 were granted bail on 23.04.2014. 6th accused was granted bail on 05.03.2014. Accused Nos.5 and 10 were granted bail as per

order dated 28.02.2014. Accused Nos.9, 11, 12, 13, 14 were granted bail as per order dated 14.02.2014 of that court and also 12.02.2014 of Sessions Court Thrissur. 15th accused was granted bail by this Court. So it is seen from this, that almost all accused persons were already granted bail. Further the prosecution had no case the petitioner had involved any other crime or he is having any criminal background as well. It is not known as to how much time it will take for the court to dispose of the case as well as the case is of the year 2014. So considering the circumstances and also considering the fact that almost all accused persons were granted bail in this case and taking that as a change of circumstance, this Court feels that bail can be granted to the petitioner as well with some stringent conditions. So the application is allowed with following conditions:

1. The petitioner shall be released on bail on his executing a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties for the like sum each to the satisfaction of the Additional Sessions Court -IV (Fast Track- II), Thrissur.
2. The petitioner shall not intimidate or influence the witnesses.
3. The petitioner shall surrender his passport before the Additional Sessions Court - IV (Fast Track-II) IV, Thrissur within one week from the date of his release and if he is not having a passport, file an affidavit stating that fact within that time.
4. The petitioner shall co-operate with the trial of the case.
5. The petitioner shall not leave State of Kerala without getting prior permission from the Additional Sessions Court -IV (Fast Track -II), Thrissur till the disposal of the case. With the above conditions, this bail application is allowed. Sd/- K.RAMAKRISHNAN, JUDGE. //TRUE COPY// P.A TO JUDGE DG