

Ajeesh Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1163399

Court : Kerala

Decided On : Aug-22-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Ajeesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN FRIDAY, THE 22D DAY OF AUGUST 2014 31ST SRAVANA, 1936 CrI.MC.No. 4781 of 2014 ()
----- AGAINST THE

ORDER

IN CRMP16422014 of SESSIONS COURT, KOLLAM DATED 12-06-2014 CRIME NO. 714/2014 OF SAKTHIKULANGARA POLICE STATION, KOLLAM DISTRICT PETITIONER(S)/ACCUSED: ----- AJEESH, AGED 31 YEARS S/O. JOSEPH, MULLASSERY VADAKKETHIL SAKTHIKULANGARA VILLAGE, KAVANAD P.O., KOLLAM. BY ADV. SRI. DILEEP P. PILLAI RESPONDENT(S)/COMPLAINANT: ----- STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22-08-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No.

4781 of 2014 () APPENDIX PETITIONER'S ANNEXURES:- ANNEXURE A:-
PHOTOSTAT COPY OF

ORDER

IN CRL.M.P.NO.1642/2014 OF SESSIONS COURT, KOLLAM DATED 12.6.2014
RESPONDENT'S ANNEXURES: NIL. //TRUE COPY// P.A. TO JUDGE. dlk K.
Ramakrishnan, J.

===== Crl.M.C.No.4781 of 2014
===== Dated this, the 22nd day of August, 2014.

ORDER

This Criminal Miscellaneous Case is filed by the petitioner who is the accused in
Crime No.714/2014 of Sakthikulangara Police Station to issue direction to the
Magistrate under Section 482 of the Code of Criminal Procedure (hereinafter
referred to as 'the Code').

2. The case of the petitioner in the petition is that the petitioner is the accused in
Crime No.714/2014 of Sakthikulangara Police Station alleging offences punishable
under Sections 447, 294(b), 323 and Section 326 of Indian Penal Code. It is
submitted that the petitioner is innocent of all allegations levelled against him. The
petitioner had approached the Hon'ble Sessions Court, Kollam seeking
anticipatory bail. The learned Sessions Judge had dismissed the application for
anticipatory bail filed by the petitioner. Though the petitioner is ready and willing to
surrender before the court below, he apprehends that, he is likely to be remanded
and his bail application will not be considered on the date of filing of the application
itself. So, the Crl.M.C.No.4781 of 2014 :

2. : petitioner has no other remedy except to approach this Court seeking the
following relief: "To issue a direction to the Hon'ble Judicial First Class Magistrate
II, Kollam to positively consider the petitioner's bail application in Crime
No.714/2014 of Sakthikulangara Police Station on the date of surrender itself." 3.
Considering the nature of relief claimed in the petition, this Court felt that the
petition can be disposed of at the admission stage itself after hearing the Counsel

for the petitioner and the learned Public Prosecutor.

4. Learned counsel for the petitioner submitted that his only apprehension is that if the petitioner surrenders before the court below, his bail application will not be considered on the same day and he will be remanded to custody.

5. The petition was opposed by the Public Prosecutor on the ground that the petitioner is an absconding accused.

6. It is an admitted fact that the petitioner is the accused in Crime No.714/2014 of Sakthikulangara Police Station alleging offence punishable under Sections 447, 294 (b), 323 and Section 326 of Indian Penal Code. The apprehension of the petitioner that, if he surrenders before the court below and moves for bail, he will be remanded and Crl.M.C.No.4781 of 2014 :

3. : his application will not be considered on the date of filing itself is not genuine and without any basis. This Court has time and again observed in several petitions of this nature that the Presiding Officers of the criminal courts are duty bound to dispose of the bail applications, if any, filed by the accused persons on their surrender on the date of filing of the application itself unless compelling circumstances warrant postponement of the same to a future date. So, in fact, there is no necessity to issue any direction as sought for in the petition. However, considering the apprehension expressed in the petition, this Court feels that the petition can be disposed of as follows: If the petitioner surrenders before the Judicial First Class Magistrate II, Kollam and for releasing him on bail in Crime No.714/2014 of Sakthikulangara Police Station now pending before that court, then, the learned Magistrate is directed to consider and dispose of the bail application after hearing the Assistant Public Prosecutor of that court in accordance with law as far as possible on the date of filing of the application itself. With the above direction and observation, the petition is disposed of. Crl.M.C.No.4781 of 2014 :

4. : Office is directed to communicate this order to the concerned court immediately. Sd/- K.Ramakrishnan, Judge. Bb [True copy] P.A to Judge