

Shanu Vs. State of Kerala

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Court : Kerala

Decided On : Oct-10-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Shanu

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN FRIDAY, THE 10TH DAY OF OCTOBER 2014 18TH ASWINA, 1936 Bail Appl..No. 6937 of 2014 () ----- CRIME NO. 1153/2014 OF NOORANADU POLICE STATION, ALAPPUZHA ----- PETITIONER/ACCUSED NO.7 : ----- SHANU, AGED 22 YEARS, S/O. BHADARUDEEN, PATHIAYYATHU PUTHEN VEEDU, SOUTH OF NALUMUKKU, THAMARAKULAM. BY ADVS. SRI. R. SUNIL KUMAR SMT. A. SALINI LAL RESPONDENT/COMPLAINANTS : ----- STATE OF KERALA REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SRI. C. RASHEED THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10-10-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: bp K. RAMAKRISHNAN, J.

ORDER

This is an application filed by the petitioner/7th accused in Crime No.1153/2014 of Nooranad Police Station, for regular bail under Section 439 of the Code of Criminal Procedure (hereinafter referred to as 'the Code' for short).

2. The case of the prosecution in nut shell was that, the accused persons belonging to Popular Democratic Party, commonly known as P.D.P and on account of the enmity with the de facto complainant and other injured, who belonging to Democratic Youth Friend of India (DYFI), a youth wing of the popular political party, the Communist party of India (Marxist), with a view of commit murder of the injured persons on 05.09.2014 at about 7.45 p.m formed an unlawful assembly with deadly weapons and inflicted injuries on one Shihabudeen and two others, in which Shihabudeen's hand was chopped causing deep cut injury and others also sustained severe injuries and thereby all of them have committed the B.A. No. 6937 of 2014 2 offences punishable under Section 143, 147, 148, 324, 323, 307 r/w Sec. 149 of the Indian Penal Code.

3. The counsel for the petitioner submitted that, the petitioner has not committed any offence and he is innocent of the same and since he happened to be a worker of the above party namely PDP, he has been falsely implicated in this case. There is no overtact alleged against him and he is in jail from 07.09.2014 onwards and his custody is not required any more in connection with this investigation.

4. The application was opposed by the Public Prosecutor on the ground that, accused persons came in motor cycles with fake numbers and even without numbers and persons from out side is being brought to commit such offences causing threat to the society. So, granting bail at this stage will affect the investigation as well as the law under situation in the area.

5. Heard both sides and perused the records.

6. It is seen from the records that the above case was registered on the basis of the statement given by one of the injured against six named persons and ten B.A. No. 6937 of 2014 3 identifiable PDP workers alleging commission of the offences punishable under Sections committed the offences punishable under Section 143, 147, 148, 324, 323, 307 r/w Sec. 149 of the Indian Penal Code. It is seen from the records that thereafter the present petitioner and 9 others were also identified and they were implicated as accused numbers 7 to 15 in the case. It is seen from the report of the investigating officer that it is on the basis of the arrangements made by the present petitioner that the entire incident happened and similar other incidents also had happened in the locality within the same Police Station limit, in which PDP and LDF sympathizers were involved. It is quite unfortunate that in the name of politics, vandalism is being done in the locality causing injury to several persons and also causing threat to the society itself.

7. Considering the party to which both parties belong, it cannot be said that if bail is granted to the petitioner at this stage it will not have any retaliation in the locality and affect the law under situation. Further, the learned Public Prosecutor also submitted that tensed B.A. No. 6937 of 2014 4 situation is still prevailing in the locality and granting bail to the petitioner will affect the public tranquility as well. Merely, because they were in jail from some period alone is not sufficient to grant bail and in cases where public interest and public tranquility is likely to be affected, detention of such persons in jail may be required.

8. So, considering the manner in which the incident occurred and also considering the background of the case and the persons involved including the persons affected in the incident, this Court feels that it is not a fit case to grant bail to the petitioner at this stage as it may not only affect the smooth progress of the investigation but as the possibility of threatening the witness cannot be ruled out and affecting public tranquility as apprehended by the Public Prosecutor. So, the petitioner is not entitled to get bail at this stage. The application is liable to be rejected. In the result, the application is rejected. Sd/-K. RAMAKRISHNAN, Judge
/True Copy/ P.A to Judge Isn