

Robert, vs State of Kerala,

Robert, vs State of Kerala,

SooperKanoon Citation : sooperkanoon.com/1305238

Court : Kerala

Decided On : Feb-29-2024

Judge : Honourable Mrs. Justice Sophy Thomas

Appeal No. : Bail Appl./804/2024

Appellant : Robert,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SOPHY THOMAS
THURSDAY, THE 29TH DAY OF FEBRUARY 2024 / 10TH PHALGUNA,
BAIL APPL. NO. 804 OF 2024 CRIME NO.702/2023 OF Pozhiyoor
Police Station, Thiruvananthapuram AGAINST THE
ORDER/JUDGMENT SC 2320/2023 OF ADDITIONAL SESSIONS
COURT.-TRIAL OF ABKARI ACT CASES, NEYYATTINKARA
PETITIONER/S: ROBERT, AGED 34 YEARS S/O. VARGHESE,
CHEENIVILA VEEDU, KANTHALOOR DESOM, KARODE VILLAGE,
THIRUVANANTHAPURAM DISTRICT, FROM IDAVALAKAM VEEDU,
KARUMARAM , KARODE DESOM AND VILLAGE,
THIRUVANANTHAPURAM DISTRICT, PIN - BY ADV LATHEESH

SEBASTIAN RESPONDENT/S: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 BY ADVS. PUBLIC PROSECUTOR ADDL.DIRECTOR GENERAL OF PROSECUTION ADDL. STATE PUBLIC PROSECUTOR OTHER PRESENT: SR.PP - SRI.C.K.SURESH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

SOPHY THOMAS, J.

=====

=====

Dated this the 29th day of February, 2024

ORDER

This is an application for regular bail under Section 439 Cr.P.C filed by the sole accused in Crime No.702 of 2023 of Pozhiyoor Police Station, Thiruvananthapuram, registered under sections 294(b), 323, 324, 506 and 307 of Indian Penal Code.

2. The prosecution allegation is that, on 02.07.2023 at 4.00 PM

the petitioner, who is the 2nd husband of that defacto complainant, due to his previous enmity towards her and her mother, abused and assaulted the defacto complainant and beat her with an iron pipe. When her mother intervened, he turned against her, and inflicted several blows on her head and body with that iron pipe. Due to the severity of the injuries suffered, her mother succumbed to the injuries on the very same night at 12.15 AM. -3-

3. Heard learned counsel for the petitioner and the learned Senior Public Prosecutor.

4. Learned Senior Public Prosecutor vehemently opposed the bail application.

5. Learned counsel for the petitioner would submit that there

were some matrimonial disputes between himself and his wife, and when he slapped his wife, her mother intervened and she attempted to assault him using an iron rod. Only as self defence, he inflicted a blow on the deceased, and he never intended her death. He is in judicial custody from 04.07.2023 onwards. Final report has been filed and Sessions Case is pending before the Additional District and Sessions Court, Neyyattinkara as SC No.2320 of 2023. He is ready to abide by any condition imposed by this Court.

6. Learned Senior Public Prosecutor pointed out that the

petitioner inflicted 14 injuries on the body of the victim as seen from the postmortem certificate, out of which four were heavy blows -4- inflicted on her head with the iron rod. So it was not a case of single blow, inflicted on self defence as alleged by the petitioner. Moreover, the petitioner is involved in Crime No.1331 of 2018 of Parassala Police Station registered under sections 376 of IPC and also POCSO offences. So this Court is not inclined to release the petitioner on bail.

7. A report was called for from the Additional District and

Sessions Judge, Neyyattinkara as to the time required for disposing of SC No.2320 of 2023. Learned Trial Judge reported that FSL report is not yet received and communication has been sent to the FSL for getting the report immediately. Learned Senior Public Prosecutor produced copy of the letter received from Director, Forensic Science Laboratory, stating that considering the urgency reported, examination of the material objects will be conducted on top priority basis, and the report shall be given within two weeks. In such circumstances, a direction can be issued to the trial court to expedite the trial of SC No.2320 of 2023 immediately on receipt of the FSL report, and to dispose of the case within five months from the -5- date of receipt of the FSL report. If the FSL report is not received within two weeks as assured by the Director, Forensic Science Laboratory, Thiruvananthapuram, the trial court has to take steps to see that the report is obtained at the earliest, so as to proceed with the trial without delay, as the petitioner is in custody. Registry to forward a copy of this order to the trial court forthwith along with copy of letter No.B1-9809/FSL 2023 dated 24.2.2024. With these directions, above petition is disposed of. sd/- SOPHY THOMAS JUDGE

-6- APPENDIX OF BAIL APPL. 804/2024 PETITIONER ANNEXURES Annexure 1 TRUE COPY OF THE CITIZEN COPY OF FIR IN CRIME NO.702/2023 OF POZHIOOR POLICE STATION, THIRUVANANTHAPURAM DISTRICT Annexure 2 TRUE COPY OF THE ORDER OF THE JFMC-II, NEYYATTINKARA IN CRL.M.P NO.7303/2023 DATED 30.09.2023 Annexure 3 TRUE COPY OF THE ORDER OF THE

ADDITIONAL SESSIONS COURT, NEYYATTINKARA IN C.M.P NO.2854/2023 IN S.C NO. 2320/2023 DATED 13.11.2023 Annexure 4 TRUE COPY OF THE ORDER OF THE ADDITIONAL SESSIONS COURT, NEYYATTINKARA IN C.M.P NO.90 /2023 IN S.C NO. 2320/2023 DATED 09.01.2024

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com