

Meenakshi vs State of Kerala

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Court : Kerala

Decided On : Apr-23-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./3253/2024

Appellant : Meenakshi

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY,
THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 BAIL APPL.
NO. 3253 OF 2024 CRIME NO.179/2024 OF Vanchiyoore Police Station,
Thiruvananthapuram PETITIONER/S: 1 MEENAKSHI AGED 34 YEARS
D/O ANTHONIYAMMA, DOOR NO. 26, ANNA NAGAR, KADAYANODAI
PO, THIRUCHENDUR, THOOTHUKUDI TALUK, THOOTHUKUDI
DISTRICT., PIN - 628614 2 MAARI AGED 33 YEARS D/O
ANTHONYAMMA, DOOR NO. 26, ANNA NAGAR, KADAYANODAI PO,
THIRUCHENDUR, THOOTHUKUDI TALUK, THOOTHUKUDI
DISTRICT., PIN - 628614 BY ADVS. NOBEL RAJU ALEENA JOSE
RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY PUBLIC

PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 THE
STATION HOUSE OFFICER, VANCHIYOOR POLICE STATION,
VANCHIYOOR PO, THIRUVANANTHAPURAM DISTRICT, PIN -
695035 Sr pp Sri C.S Hrithwik THIS BAIL APPLICATION HAVING
COME UP FOR ADMISSION ON 23.04.2024, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING: C.S.DIAS,J
===== ----- Dated this the
23rd day of April, 2024

ORDER

The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the accused 1 and 2 in Crime No.179/2024 of the Vanchiyoor Police Station, Thiruvananthapuram, registered against them, for allegedly committing the offence punishable under Section 392 read with Sec.34 of the Indian Penal Code. The petitioners were arrested on 26.2.2024.

2. The essence of the prosecution case, is that; on 25.2.2024 at around 13.15 hours, the accused 1 and 2, in furtherance of their common intention, snatched a gold chain along with a locket weighing about 5 sovereigns of the de facto complainant and committed the above offence.

3. Heard; Sri. Nobel Raju, the learned counsel appearing for the petitioners and the learned Public Prosecutor.

4. The learned counsel appearing for the petitioners submitted that the petitioners are totally innocent of the accusations levelled against them. They have been falsely

implicated in the crime. The investigation in the case is complete, the final report has been laid and the case has been numbered as CC No.198/2024 on the file of the Judicial First Class Magistrate Court-XI, Thiruvananthapuram. Therefore, the petitioners further detention is unnecessary. Moreover, the petitioners are women. Hence, the petitioners may be released on bail.

5. The learned Public Prosecutor opposed the application. She submitted that the petitioners are persons with criminal antecedents. They are involved in similar crimes. This was

one of the reasons for the learned Magistrate to have repeatedly dismissed all their applications. If the petitioners are enlarged on bail, there is every likelihood of them committing similar offences. Moreover, the petitioners do not have roots in the State of Kerala as they hail from the State of Tamil Nadu. Hence, the application may be dismissed.

6. The prosecution allegation against the petitioners is

that, they with a common intention had snatched a gold chain weighing five sovereigns of the de facto complainant. The learned Magistrate has dismissed the petitioners application principally on the ground that the petitioners are persons with criminal antecedents and they hail from the State of Tamil Nadu. Even though the learned Magistrate has observed that the petitioners have criminal antecedents, there is no material to show their involvement in the other crimes. Moreover, in *Hussainara Khatoon vs. Home Secretary, State of Bihar*

[1980 (1) SCC 98], the Honble Supreme Court has categorically held that merely because a person does not have roots in a particular State, the same cannot be a ground to deny bail to the accused.

7. In *Sanjay Chandra v. CBI*, [2012 1 SCC 40], the

Honourable Supreme Court has categorically held that the fundamental postulate of criminal jurisprudence is the presumption of innocence, until a person is found guilty. Any imprisonment prior to conviction is to be considered as a punitive and it would be improper on the part of the Court to refuse bail solely on the ground of former conduct.

8. In *Dataram Singh v. State of U.P.*, [(2018) 3 SCC 22]

the Honourable Supreme Court observed that grant of bail is the rule and putting a person in jail is an exception. Even though the grant of bail is entirely the

discretion of the court, it has to be evaluated based on the facts and circumstances of each case and the discretion has to be exercised in a judicious and compassionate manner.

9. Subsequently, in *State of Kerala v. Raneef*, [(2011) 1

SCC 784], the Honourable Supreme Court has again held that undertrial prisoners detained in jail for indefinite periods, without any sufficient reason or due to the delay in concluding the trial, will tantamount to infringement of their right to life guaranteed under Article 21 of the Constitution.

10. After bestowing my anxious consideration to the facts,

the rival submissions made across the Bar and the materials placed on record, especially on considering the fact that the petitioners are women and have been in judicial custody for the last sixty days, that the investigation in the case is complete and final report has been laid and there are no materials forthcoming to prove the antecedents of the petitioners, I am of the firm view that the petitioners are entitled to be released on bail. Hence, I am inclined to allow the bail application, but subject to stringent conditions;

In the result, the application is allowed, by directing the petitioners to be released on bail on them executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum, to the satisfaction of the court having jurisdiction, which shall be subject to the following conditions:

(i) The petitioners shall appear before the Investigating

Officer on every Friday between 9 a.m. and 11 a.m till the determination of CC No.198/2024. They shall also appear before the Investigating Officer as and when required;

(ii) The petitioners shall not directly or indirectly make

any inducement, threat or procure to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any Police Officer or tamper with the evidence in any manner, whatsoever;

(iii) The petitioners shall not commit any offence while they are on bail;

(iv) The petitioners shall surrender their passports, if any,

before the court below at the time of execution of the bond. If they have no passports, they shall file affidavits to the effect before the court below on the date of execution of the bond;

(v) The petitioners shall not leave the territorial jurisdiction of the Court of Session, Thiruvananthapuram till the finalisation of CC No.198/2024, without the previous permission of the jurisdictional Court.

(vi) In case of violation of any of the conditions

mentioned above, the jurisdictional court shall be empowered to consider the application for cancellation of bail, if any filed, and pass orders on the same, in accordance with law.

(vii) Applications for deletion/modification of the bail conditions shall be moved and entertained by the court below. (viii) Needless to mention, it would be well within the powers of the Investigating Officer to investigate the matter and, if necessary, to effect recoveries on the information, if any,

given by the petitioners even while the petitioners are on bail as laid down by the Hon'ble Supreme Court in *Sushila Aggarwal v. State (NCT of Delhi)* and another [2020 (1) KHC 663]. sd/- sks/23.4.2024 C.S.DIAS, JUDGE

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