

Devan vs State of Kerala

Devan vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1331233

Court : Kerala

Decided On : Jan-17-2023

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./293/2023

Appellant : DEVAN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
TUESDAY, THE 17TH DAY OF JANUARY 2023 / 27TH POUSHA, 1944
BAIL APPL. NO. 293 OF 2023 Crime No.533/2022 of Walayar Police
Station, Palakkad District PETITIONER/ACCUSED: DEVAN AGED 48
YEARS S/O.MADHAVAN, AVP ROAD, VALLADI, KANJIKODE,
PALAKKAD DISTRICT., PIN - 678621 BY ADV NIREESH MATHEW
RESPONDENT/STATE: STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 BY
ADV PUBLIC PROSECUTOR OTHER PRESENT: PP: SRI. M.C.ASHI
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
17.01.2023, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING: B.A. No.293 of 2023 :2:

VIJU ABRAHAM, J.

-- -- -- -- -- B.A. No.293 of 2023 -- -- -- -- --

-- -- Dated this the 17th day of January, 2023

ORDER

This is an application for regular bail.

2. The petitioner is the sole accused in Crime No.533/2022 of

Walayar Police Station, Palakkad District, alleging commission of offence punishable under Section 174 of the Cr. P.C. and later it was altered to offence under Section 306 of the Indian Penal Code.

3. The prosecution allegation is that, on 28.11.2022 at 2 pm, the son of the accused, by name Vishnu, committed suicide by hanging, by using a cable wire to the fan in the bed room in his

house. During the investigation, it is alleged that he committed suicide due to the mental harassment faced at the hands of the accused and thus committed the aforesaid offence.

4. The learned counsel for the petitioner submitted that the

petitioner has been falsely implicated in the above said crime. The petitioner submits that the deceased is the elder son of the petitioner and he was suffering from Tuberculosis for the past few months and the petitioner was affording treatment to the deceased from time to time. However, the deceased was mentally stressed in

B.A. No.293 of 2023 :3:

connection with the said disease and committed suicide. It is also submitted that the petitioner is in custody from 21.12.2022 onwards and that the charge sheet is

already laid and further detention of the petitioner is not required for the purpose of investigation. It is the case of the petitioner that even going by the prosecution allegation, there is no allegation to attract Section 306 IPC. The petitioner relies on the Judgment of the Apex Court in Rajesh v. State of Hariyana [2019 (1) KLD 326] and the

Judgment in Mariano Anto Bruno v. Inspector of Police [AIR

2022 SC 4994] to substantiate his contention that there is no positive action proximate to the time of occurrence on the part of the accused, which lead or compelled the person to commit suicide in terms of Section 306 IPC and such situation is not available in the facts and circumstances of the present case.

5. The learned Public Prosecutor opposed the bail application

mainly contending that the deceased was suffering from Tuberculosis and he was not given proper treatment and further that the petitioner's wife also committed suicide and the case registered against him is pending trial.

6. Having regard to the facts and circumstances of the case, considering the nature of the allegations and considering the fact B.A. No.293 of 2023 :4:

that the petitioner is in custody from 21.12.2022 onwards and that the charge sheet is already laid, I am inclined to grant bail to the petitioner subject to stringent conditions. In the result, the bail application is allowed. It is directed that the petitioner shall be released on bail, subject to the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like-sum to the satisfaction of the jurisdictional court;

(ii) Petitioner shall appear before the investigating officer in Crime No.533/2022 of Walayar Police Station, Palakkad District, on every Saturday at 11 am, until filing of final report;

(iii) The petitioner shall not attempt to interfere with the investigation or to influence or intimidate the defacto complainant or any witness in Crime No.533/2022 of Walayar Police Station, Palakkad District;

(iv) The petitioner shall not involve in any other crime while on bail. B.A. No.293 of 2023 :5: If any of the aforesaid conditions are violated, the

investigating officer in Crime No.533/2022 of Walayar Police Station, Palakkad District, may file an application before the jurisdictional court, for cancellation of bail. Sd/- VIJU ABRAHAM JUDGE sm/

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