

Binoy Mathew vs State of Kerala

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Court : Kerala

Decided On : Feb-28-2023

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./1178/2023

Appellant : Binoy Mathew

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
TUESDAY, THE 28TH DAY OF FEBRUARY 2023 / 9TH PHALGUNA,
1944 CRIME NO. 2613/2022 OF CHANGANACHERRY POLICE
STATION, KOTTAYAM DISTRICT PETITIONER/3RD ACCUSED:
BINOY MATHEW, AGED 27 YEARS PARUTHUPARAMBIL HOUSE,
MANGANAM.P.O, KOTTAYAM,, PIN - 686018 V.P.MOHAMMED NIYAZ
M.P.MUHAMMAD FAZIL SHEREEF J. AUGNES LOVELY FRANCIS
RESPONDENT/STATE & COMPLAINANT:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 THE SUB
INSPECTOR OF POLICE CHANGANACHERRY POLICE STATION,

CHANGANACHERRY P.O., KOTTAYAM DISTRICT, PIN - 686101
SHRI.SAJJU.S., SR.G.P. SRI.P.NARAYANAN. SR.G.P THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 28.02.2023,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application filed under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioner is the 3rd accused in Crime No.2613/2022 of Changanacherry Police Station, Kottayam District. The offences alleged are punishable under Sections 120B, 342, 323, 325, 302, 201 and 212 r/w 34 of IPC.

3. The prosecution case in short is that the petitioner along

with accused Nos.1 and 2 conspired to commit the murder of one Bindhumon and in pursuance of the same, they invited Bindhumon on 26.09.2022 to the house of the 1st accused, where the petitioner along with accused Nos.1 and 2 had brutally manhandled Bindhumon, murdered him and buried the dead body in a pit. It is alleged that the 4th accused was present at the scene of occurrence and he gave intentional aid to the other accused persons for the commission of the offence.

4. Heard both sides and perused the case diary.

5. The learned counsel for the petitioner submitted that the petitioner is absolutely innocent and he has been falsely implicated in

the present case. He further submitted that there are no materials to connect the petitioner with the alleged crime and hence he is entitled to get bail. The learned Public Prosecutor opposed the bail application. He contended that the alleged incident occurred as a part of the intentional criminal acts of the petitioner.

6. The petitioner was arrested and remanded to judicial

custody on 06.10.2022. The final report has already been filed. The remaining accused, accused Nos.1 and 4 were already released on bail. Hence, I do not find

any reason to hold that the continued detention of the petitioner is required for any other purpose. For all these reasons, the petitioner is entitled to be released on bail on conditions.

In the result, the application is allowed on the following conditions:-

(i) The petitioner shall be released on bail on executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Magistrate/Court.

(ii) The petitioner shall not commit any offence of like nature while on bail.

(iii) The petitioner shall not make any attempt to contact any of

the prosecution witnesses, directly or through any other person, or any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

(iv) The petitioner shall not leave the State of Kerala without the permission of the trial Court.

(v) The application, if any, for deletion, modification of bail conditions or for cancellation of bail on the ground of violation of the bail conditions shall be filed at the jurisdictional court. Sd/- DR.KAUSER EDAPPAGATH, JUDGE AS

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