

Vinod vs State of Kerala

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Court : Kerala

Decided On : Feb-28-2023

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Bail Appl./1249/2023

Appellant : VINOD

Respondent : State of Kerala

Judgement :

B.A.No.1249/23 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. TUESDAY, THE 28TH DAY OF FEBRUARY 2023 / 9TH PHALGUNA, 1944 BAIL APPL. NO. 1249 OF 2023 [CRIME NO.752/2022 OF VALIYAMALA POLICE STATION, THIRUVANANTHAPURAM] PETITIONERS/ACCUSED 1, 2, 3 & 4: 1 VINOD, AGED 37 YEARS, RESIDING AT RODARIKATHU VEEDU, NALLIKUZHI, UZHAMALAKKAL, PUTHUKULANGARA THIRUVANATHAPURAM, PIN - 695 541. 2 VICTOR, AGED 69 YEARS, RESIDING AT RODARIKATHU VEEDU, NALLIKUZHI, UZHAMALAKKAL, PUTHUKULANGARA, THIRUVANATHAPURAM DISTRICT, PIN - 695 541. 3 SREEDEVI, AGED 56 YEARS, RESIDING AT RODARIKATHU, VEEDU, NALLIKUZHI, UZHAMALAKKAL, PUTHUKULANGARA,

THIRUVANATHAPURAM DISTRICT, PIN - 695 541. 4 VIJAYAN, AGED 38 YEARS, RESIDING AT RODARIKATHU VEEDU, NALLIKUZHI, UZHAMALAKKAL, PUTHUKULANGARA, THIRUVANATHAPURAM., PIN - 695 541. BY ADV.S.SOUMYA ISSAC RESPONDENTS: B.A.No.1249/23 2 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682 031.

2 STATION HOUSE OFFICER, VALIYAMALA POLICE STATION, THIRUVANATHAPURAM RURAL, PIN - 695 541. 3 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031. SMT.SREEJA V.- SR.PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28.02.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.1249/23 3

ORDER

The petitioners are the accused in Crime No.752 of 2022 of Valiyamala Police Station. The offences alleged against the petitioner are under Sections 498A and Section 34 of IPC. The 1 st petitioner is the husband of the de facto complainant, the 2nd and 3rd petitioners are the parents of the 1 st petitioner, and the 4 th petitioner is the brother of the 1st petitioner.

2. The prosecution case is as follows: The marriage

between the 1st petitioner and the de facto complainant was solemnized on 01.09.2014. Immediately after the marriage, 30 sovereigns of gold given to her by her parents were misappropriated by the petitioners, and thereafter, they ill-treated the de facto complainant demanding more amounts. It is also alleged that the 1st accused had collected a further amount of Rs.2,00,000/-, which was utilised for his luxurious life. It is also alleged that the 1st petitioner/1st accused did not look after the child born to them while he was in need of medical treatment. The complaint was submitted in such circumstances. This application is submitted by the petitioner seeking anticipatory bail as they apprehend arrest. B.A.No.1249/23 4

3. The learned counsel for the petitioners submits that the

petitioners are innocent of all the allegations. Complaint with false allegations was submitted on account of certain matrimonial disputes between the 1st petitioner and the de facto complainant. It is contended that the petitioners are ready to abide by any conditions that may be imposed by this Court and shall cooperate with the investigation.

4. On the other hand, the learned Public Prosecutor would

submit that petitioners 2, 3 and 4 were already deleted from the list of accused during the investigation conducted in the said crime. Now there is only one accused, who is the 1st petitioner herein. In addition to the offence under Section 498 A IPC, Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015, was also incorporated. Investigation in the aforesaid case is ongoing, and therefore, it is contended that if the 1st petitioner is granted anticipatory bail, it will cause difficulties to the investigation.

5. I have gone through the records and heard the

contentions raised by either side. As regards the prayer for anticipatory bail sought by petitioners 2 to 4 are concerned, it is reported that they are no longer accused in the aforesaid case, and B.A.No.1249/23 5 the anticipatory bail application to that extent is closed. With regard to the 1st petitioner, it is pointed out that in addition to the offence under Section 498A IPC, the offence under Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015, is also incorporated. On going through the materials placed on record, I am of the view that it appears that there are certain matrimonial disputes between the petitioner. No serious allegations of any physical ill-treatment are seen mentioned. In such circumstances, I do not find any necessity for custodial interrogation of the petitioner. Therefore, I am of the view that interest of justice would be served, if the cooperation of the petitioner with the investigation is ensured, for which the petitioner has to surrender before the investigating officer. In such circumstances, this bail application is allowed with the following directions:

(i) The 1st petitioner shall surrender before the Investigating officer, within a period of two weeks from today, for subjecting himself to interrogation.

(ii) After interrogation, the 1st petitioner shall be released on bail on the very same day of surrender upon the petitioner B.A.No.1249/23 6 executing a bond for Rs. 1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like sum, to the satisfaction of the investigating officer.

(iii) The 1st petitioner shall fully cooperate with the investigation, including subjecting himself to the deemed police custody for the purpose of recovery, if any, as and when demanded.

(iv) The 1st petitioner shall appear before the investigating officer between 10.00 a.m and 11.00 a.m every Saturday until the filing of the final report. (v). The 1st petitioner shall also appear before the investigating officer as and when required by him.

(vi) The 1st petitioner shall not commit any offence of similar nature while on bail.

(vii) The 1st petitioner shall not make any

attempt to contact any of the prosecution witnesses, directly or through any other person, or in any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation. B.A.No.1249/23 7 (viii) The 1st petitioner shall not leave the State of Kerala without the permission of the trial Court.

In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation of bail, if any, and pass appropriate orders in accordance with the law. Sd/- ZIYAD RAHMAN A.A. JUDGE DG/28.2.23 B.A.No.1249/23 8 APPENDIX OF BAIL APPL. 1249/2023 PETITIONER ANNEXURES AnnexureA TRUE COPY OF FIR DATED ON 10.10.2022 OF VALIYAMALA POLICE STATION, THIRUVANATHAPURAM

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