

Gopakumar @ Kannan vs State of Kerala

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Court : Kerala Orders

Decided On : Apr-05-2023

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : Bail Appl./2106/2023

Appellant : Gopakumar @ Kannan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
WEDNESDAY, THE 5TH DAY OF APRIL 2023 / 15TH CHAITHRA, 1945
BAIL APPL. NO. 2106 OF 2023 CRIME NO.478/2012 IN
MANGALAPURAM POLICE STATION, THIRUVANANTHAPURAM
PETITIONER/ACCUSED NO.1: GOPAKUMAR @ KANNAN AGED 34
YEARS, S/O GOPINATHAN GOPALAKRISHNA MANDIRAM, PUTHEN
NADA ANCHUTHENGU, KADAKKAVOOR, THIRUVANANTHAPURAM,
PIN - 695001 BY ADV M.R.SARIN RESPONDENTS/STATE: 1 STATE
OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM, PIN - 682031 2 THE INSPECTOR
OF POLICE MANGALAPURAM POLICE STATION

THIRUVANANTHAPURAM, PIN - 636202 BY ADVS. PUBLIC PROSECUTOR DIRECTOR GENERAL OF PROSECUTION(AG-10) P.NARAYANAN, SENIOR G.P. AND ADDL.PUBLIC PROSECUTOR SHRI.SAJJU.S. P G MANU - SR PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05.04.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Dated this the 5th day of April, 2023 This is a petition filed under Section 439 of the Code of Criminal Procedure, seeking bail and the petitioner is the 1 st accused in crime No.478/2012 of Mangalapuram Police Station, Thiruvananthapuram, now pending as S.C.No.201/2023 on the files of Additional Sessions Court-IV, Thiruvananthapuram.

2. Heard the learned counsel for the petitioner as well as

the learned Public Prosecutor in detail. Perused the relevant materials form part of the case diary including the history of the case pointed out by the learned Public Prosecutor.

3. In this matter, the prosecution case is that, accused

Nos. 1 to 3 committed murder of one Prakasan after taking him inside an autorickshaw bearing registration No. KL-16-H-3908, driven by the 4th accused. Accordingly, crime alleging commission of offences punishable under Sections 302, 201 r/w 34 of IPC as well as under Section 3(1) r/w 181 of MV Act was registered and thereafter Final Report also was filed on 30.10.2013.

4. The learned counsel for the petitioner would submit

that, the petitioner is innocent and he has been in custody for the last 101 days. Therefore, the learned counsel for the petitioner pursued the relief of regular bail to the petitioner.

5. Strongly opposing grant of regular bail to the petitioner,

the learned Public Prosecutor submitted that this is a crime of the year 2012 and the petitioner was arrested as early on 04.07.2012 and thereafter released on bail. But, after the release of the petitioner on bail, he absconded and the trail was stalled. Accordingly, his case was moved to long pending register vide L.P.No. 23/2018 and after tedious efforts, the Police could arrest the petitioner on 19.12.2022. The learned Public Prosecutor submitted that, if the petitioner would be released on bail, he would abscond from trial since he was a person absconded for a long period of 10 years to defeat the trail.

6. On perusal of the case records, the arguments

advanced by the learned Public Prosecutor could be seen, prima facie. In this case, the petitioner was earlier arrested on 04.07.2012 and he had executed bail bond to appear before the Court without fail to facilitate trial. But the petitioner absconded for a long period of ten years. Accordingly, his case was included in the long pending register (L.P.No.23/2018) and the petitioner was arrested after ten years as on 19.12.2022. The allegation against the petitioner is commission of offence of murder.

7. In criminal prosecution availability of witnesses within a

reasonable time is an important criteria to effectuate fair trial. The absconsion of the petitioner for a pretty long time in fact would affect fair trial since likelihood of availability of witnesses may loose during the long period of time. Therefore, the petitioner, who absconded for a period of ten years cannot be released on bail for any reason and his trial shall be completed keeping him in custody. In view of the above, bail plea at the instance of the petitioner cannot be considered at all. Accordingly, this bail application stands dismissed.

Sd/- A. BADHARUDEEN SK JUDGE

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