

Sivaprasad vs State of Kerala

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Court : Kerala Orders

Decided On : Mar-30-2023

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

Appeal No. : Bail Appl./2477/2023

Appellant : Sivaprasad

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
THURSDAY, THE 30TH DAY OF MARCH 2023 / 9TH CHAITHRA, 1945
BAIL APPL. NO. 1707 OF 2023 CRIME NO.114/2023 OF PUNALUR
POLICE STATION PETITIONER/2ND ACCUSED: BINU RAJ AGED 36
YEARS S/O RAJAN, LAKSHMI NIVAS, ARAMPUNNA, ELAMPAL P.O.
PUNALUR VILLAGE, PUNALUR TALUK, KOLLAM DISTRICT, PIN -
691305 BY ADV A.SANIL KUMAR RESPONDENT/STATE &
COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2
INSPECTOR OF POLICE PUNALUR POLICE STATION, PUNALUR,
KOLLAM DISTRICT, PIN - 691305 ADV T R RENJITH-PP THIS BAIL

APPLICATION HAVING COME UP FOR ADMISSION ON 30.03.2023, ALONG WITH Bail Appl..2477/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :2 :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
THURSDAY, THE 30TH DAY OF MARCH 2023 / 9TH CHAITHRA, 1945
BAIL APPL. NO. 2477 OF 2023 CRIME NO.114/2023 OF PUNALUR
POLICE STATION PETITIONER/1ST ACCUSED: SIVAPRASAD AGED
35 YEARS S/O SIVARAJAN PILLAI RESIDING AT SREEKRISHNA
VILASAM, MANJAMANKALA ,CHEMMANTHOOR MURI,PUNALUR
P.O, KOLLAM DISTRICT, PIN - 691305 BY ADVS. NIRMAL V NAIR
ANEES.T ARATHI PRABHAKARAN DELLA ABRAHAM

RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 ADV T R RENJITH-PP
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30.03.2023,
ALONG WITH Bail Appl..1707/2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: :3 :

ORDER

Dated this the 30th day of March, 2023 B.A. No.1707/2023 is filed by the 2 nd accused and B.A. No.2477/2023 is filed by the 1 st accused in crime No.114/2023 of Punalur Police Station. The offences alleged against the petitioners are under Sections 366, 376(2)(I) and 377 read with Section 34 of the Indian Penal Code.

2. The prosecution case is that, on 10.01.2023 at about

11.30 a.m., the accused persons kidnapped the victim, who is a mentally challenged girl in an autorickshaw and taken to the rented house of the 2 nd respondent. Thereafter both the accused committed rape of the said victim and thereby committed the offences. In connection with the incident, both the accused were arrested on 19.01.2023 and since then, they have been under judicial custody. Even though the 2nd accused earlier approached this Court by filing B.A.

No.925/2023 seeking bail, the same was dismissed as per order dated 07.02.2023. The 1st accused also :4 : approached this Court by filing B.A. No.1069/2022 which was also dismissed by this Court. In such circumstances these bail applications were submitted seeking regular bail.

3. Heard Sri. A. Sanil Kumar, the learned counsel

appearing for the petitioner in B.A. No.1707/2023, Sri. Nirmal V. Nair, the learned counsel appearing for the petitioner in B.A. No.2477/2023 and Sri. T.R. Ranjith, the learned Public Prosecutor for the State.

4. The learned counsel for the petitioner submits that the

petitioners are innocent of all the allegations. According to him, they were falsely implicated and they have no role to play in commission of the alleged offences.

5. On the other hand the learned Public Prosecutor

would oppose the aforesaid applications. It is pointed out that going through the statements of the victim, both in the First Information Statement as well as the statement recorded under Section 164 Cr.P.C., there are clear descriptions of the nature of sexual assaults committed upon the victim. It is further pointed out that, the investigation is now in progress and hence if the petitioners were released on bail, it is likely to hamper the :5 : prospects of investigation.

6. I have gone through the records and heard the

contentions put forward by the respective counsels appearing for the petitioners. This Court has already considered the prayer sought by the petitioners for bail in the earlier bail applications submitted by both the petitioners. It is discernible that, even now the investigation is in progress and I do not find any change circumstances so as to entertain these bail application at this juncture. Even though the learned counsel for the petitioners contended that, more than 70 days have been elapsed since the date of arrest, I am of the view that by itself cannot be a reason to grant bail to the petitioners, particularly taking note of the nature of allegations and the materials already placed on record. In such circumstances, I

do not find any merits in these bail applications and these bail applications are dismissed. Sd/- ZIYAD RAHMAN A.A. JUDGE ncd :6 : APPENDIX OF BAIL APPL. 1707/2023 PETITIONER ANNEXURES Annexure-A1 TRUE COPY OF THE JUDGMENT DATED 7.2.2023 IN BAIL APPLICATION NO.925/2023 PASSED BY THIS HON'BLE COURT :7 : APPENDIX OF BAIL APPL. 2477/2023 PETITIONER ANNEXURES Annexure 2 A TRUE COPY OF THE ORDER DATED 27-01- 2023 IN C.M.P 847/2023 IN CRIME NO.114/2023 OF THE JMFC II, PUNALUR Annexure 3 A TRUE COPY OF THE ORDER DATED 3-3- 2023 IN B.A. NO. 1069/2023 ON THE FILES OF THIS HONOURABLE COURT

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