

Shaju vs State of Kerala Represented by the Public Prosecutor

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Court : Kerala

Decided On : Apr-28-2023

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

Appeal No. : Bail Appl./2678/2023

Appellant : SHAJU

Respondent : State of Kerala Represented by the Public Prosecutor

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
FRIDAY, THE 28TH DAY OF APRIL 2023 / 8TH VAISAKHA, 1945
CRIME NO.363 OF 2023 OF THIRUVALLA POLICE STATION,
PATHANAMTHITTA PETITIONERS/ACCUSED NOS.1 & 2 :- 1 SHAJU,
AGED 25 YEARS S/O BASHEER, PALAKUZHIYIL HOUSE, VENGAL,
ALUMTHURUTHY PO, KAVUMBHAGOM, THIRUVALLA,
PATHANAMTHITTA-., PIN - 689104 2 ANOOP VARGHESE AGED 30
YEARS S/O CHACKO MATHAI, KARANATHUSSERIL,
ALUMTHURUTHY PO, KAVUMBHAGOM, THIRUVALLA,
PATHANAMTHITTA-, PIN - 689104

BY ADV M.R.SASITH RESPONDENT/COMPLAINANT :- STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA,ERNAKULAM, PIN - 682031 BY SRI.VIPIN NARAYAN, PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28.04.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Dated this the 28th day of April, 2023 Petitioners are the accused in Crime No.363 of 2023 of Thiruvalla Police Station. The offences alleged against the petitioners are under Sections 379 and 34 of Indian Penal code.

2. The prosecution case is that the accused in furtherance of their

common intention, on 09.03.2023 at 2.30 pm, came in the car of the 1 st accused and committed theft of the battery of the solar light fixed by the Kuttoor Panchayath at Eradichira worth Rs.30,000/-. The crime was registered in such circumstances and as part of the investigation, the petitioners were arrested on 16.03.2023. Since then, they have been under judicial detention. This application for regular bail is submitted in such circumstances.

3. Heard Sri. Sasith M.R, the learned counsel appearing for the petitioners and Sri.Vipin Narayan, the learned Public Prosecutor appearing for the State.

4. The learned counsel for the petitioners submits that the

petitioners are innocent of all the allegations. It is pointed out that, they are in custody since 16.03.2023 and the recovery of the articles were already affected. Therefore, further incarceration of the petitioners are not necessary.

5. On the other hand, the learned Public Prosecutor opposed the aforesaid application. However, it is confirmed that the recovery has been affected.

6. I have gone through the records. It is evident that there are

allegations against the petitioners. Besides the present crime, the petitioners are also involved in three other cases which were committed on the very same day. However, the fact remains that the petitioners are in judicial custody since 16.03.2023 and the recovery of the articles were already affected.

7. In such circumstances, taking note of the period of detention of

the petitioners have already undergone and considering the substantial progress in the investigation, I am of the view that, the petitioners can be granted bail. Accordingly, this application is allowed and the petitioners are directed to be released on bail subjected to the following conditions :- 1) The petitioners shall be released on bail on executing a bond for Rs.1,00,000/- (Rupees One Lakh only) each with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court. 2) The petitioners shall fully co-operate with the investigation.

3) The petitioners shall appear before the Investigating Officer between 10.00 a.m and 11.00 a.m on every Wednesday until the filing of final report. 4) The petitioners shall appear before the Investigating Officer as and when required. 5) The petitioners shall not commit any offence of similar nature while on bail. 6) The petitioners 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. 7) The petitioners shall not leave the State of Kerala without the permission of the jurisdictional 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
SMA APPENDIX OF BAIL APPL. 2678/2023 PETITIONER ANNEXURES
Annexure A1 THE TRUE COPY OF FIR IN CRIME NO. Annexure A2 THE TRUE COPY OF THE COMMON ORDER IN CRL

MP NO1603/2023 AND CRL MP 1604/2023 IN CRIME NO 363/2023 PASSED BY THE HON'BLE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE AT THIRUVALLA DATED 22.03.2023

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