

Subhash vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1350922

Court : Kerala

Decided On : Apr-28-2023

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

Appeal No. : Bail Appl./2691/2023

Appellant : Subhash

Respondent : State of Kerala

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.1158 OF 2017 OF KULLATHUPUZHA POLICE STATION,
KOLLAM PETITIONER/ACCUSED :- SUBHASH, AGED 45 YEARS S/O.
USHA, USHA VILASOM VEEDU, DALIKARIKKOM, KULATHUPPUZHA
VILLAGE,PUNALUR TALUK, KOLLAM DISTRICT-, PIN - 691310 BY
ADV S.SREEJITH (S-3453) RESPONDENT :- STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM., PIN - 682031 BY SMT.SEETHA S, SR.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 The petitioner, is the second accused in Crime No.1158 of 2017 of Kulathuppuzha Police Station. The offences alleged against the petitioner and three identified accused persons under Sections 143, 147, 148, 341, 323, 324 and 308 r/w 149 of Indian Penal code.

2. The prosecution case is that the petitioner along with other

accused persons formed themselves into an unlawful assembly, assaulted the defacto complainant, thereby causing injuries to him. The crime was registered in such circumstances. The petitioner was earlier arrested and was granted bail. However, later, the petitioner went abroad for employment purposes and thereafter, he did not participate in the trial. Accordingly, the bail granted to the petitioner was cancelled and the proceeding against the petitioner was split up. Later, the petitioner was arrested on 10.03.2023 and since then he has been under judicial detention. This application for regular bail is submitted in such circumstances.

3. Heard Sri. S.Sreejith, the learned counsel appearing for the petitioner and Smt.Seetha S, the learned Public Prosecutor appearing for the State.

4. The learned counsel for the petitioner submits that the

petitioner is innocent of all the allegations. It is pointed out that, the petitioner was working abroad after he was released on bail and therefore, he could not appear before the Court when the matter was taken up for trial. The petitioner submits that he is prepared to abide by any conditions that may be imposed by this Court.

5. On the other hand, the learned Public Prosecutor opposed

the aforesaid application by pointing out that the petitioner was absconding for a long time. It is pointed out that, if the petitioner is released on bail, he is likely to abscond again.

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

allegations against the petitioner and for sometime he absconded also. But it is pointed out that, all the other accused who faced the trial were already acquitted by the trial court. The petitioner is in custody since 17.03.2023.

7. Considering all the relevant aspects, I am of the view that,

the petitioner can be granted bail by incorporating appropriate conditions to ensure that he is co-operating with trial. In such circumstances, this application is disposed of directing the release of the petitioner upon bail subjected to the following conditions :-

- 1) The petitioner shall be released on bail on 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 jurisdictional Court.
- 2) The petitioner shall fully co-operate with the investigation.
- 3) The petitioner 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 petitioner shall appear before the Investigating Officer as and when required.
- 5) The petitioner shall not commit any offence of similar nature while on bail.
- 6) The 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.
- 7) The petitioner shall not leave the State of Kerala without the permission of the jurisdictional court.
- 8) The petitioner shall surrender his passport before the Jurisdictional court and, in case he does not have a passport, an affidavit to that effect shall be filed.

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

