

Shabeer vs State of Kerala

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Court : Kerala

Decided On : Apr-28-2023

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

Appeal No. : Bail Appl./3004/2023

Appellant : Shabeer

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 BAIL
APPL. NO. 3004 OF 2023 CRIME NO. 344/2023 OF MATTANCHERY
POLICE STATION PETITIONER/3RD ACCUSED: SHABEER AGED 32
YEARS S/O. A K BEERAS, C C 7/1212, KAPPALANDYMUKKU,
MATTANCHERRY, PIN - 682002 BY ADV D.LEEMA ROSY
RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED
BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM,
PIN - 682031 PUBLIC PROSECUTOR SRI. VIPIN NARAYANAN THIS
BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
28.04.2023, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING: :2 :

ORDER

Dated this the 28th day of April, 2023 This bail application is filed under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioner is the 3rd accused in crime No.344/2023

of Mattancherry Police Station. The offences alleged against the petitioner and the other accused are under Sections 143, 147, 148, 149, 323, 324, 326, 367, 308 and 506(i) of the Indian Penal Code.

3. The prosecution case is that, on 28.02.2023, the

petitioner along with other accused persons, had abducted the defacto complainant and thereafter assaulted him, with a broken piece of glass and a wooden stick thereby causing serious injuries to him. The crime was registered in such circumstances and as part of investigation, the petitioner was arrested on 04.03.2023. Since then, he has been under judicial detention. This application for regular bail is submitted in such circumstances.

4. Heard Smt. D. Leema Rosy, the learned counsel appearing for the petitioner and Sri. Vipin Narayanan, the learned :3 : Public Prosecutor for the State.

5. The learned counsel for the petitioner submits that the

petitioner is innocent of all the allegations and he is falsely implicated in the said case. It is pointed out that the petitioner is in custody since 04.03.2023 and there is no purpose of keeping him under detention any longer.

6. On the other hand the learned Public Prosecutor would

oppose the aforesaid application by pointing out that there are serious allegations against the petitioner and he has specific role in commission of the offences. He is also involved in two crimes registered in the year 2015.

7. I have gone through the records and heard the

contentions raised from both sides. It is true that there are allegations against the petitioner. But the fact remains that the petitioner is in custody since 04.03.2023. There is substantial progress in the investigation. Even though the petitioner was involved in two other cases as well, the offences alleged therein were not very serious in nature. In such circumstances, taking note of the period of detention the petitioner had already undergone and other relevant aspects, I am of the view that, the further incarceration of the petitioner may not be necessary. In :4 : such circumstances, this bail application is allowed directing the release of the petitioner on bail. Accordingly, the petitioner is directed to be released on bail subject to the following conditions:-

(I) The petitioner shall be released on bail on executing a bond for `1,00,000/- (Rupees One Lakh only) with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Court.

(ii) The petitioner shall fully cooperate with the investigation.

(iii) The 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.

(iv) The petitioner shall also appear before the Investigating Officer as and when required.

(v) The petitioner shall surrender his passport before the jurisdictional court. If the petitioner does not have a passport, he shall execute an affidavit to that effect and file the same before the said court.

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

(vii) 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 :5 :

try to tamper with the evidence or influence any witnesses or other persons related to the investigation. (viii) The 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 law. Sd/- ZIYAD RAHMAN A.A. JUDGE ncd :6 : APPENDIX OF BAIL APPL. 3004/2023 PETITIONER ANNEXURES Annexure1 TRUE COPY OF CRIME NO.344/2023 OF THE MATTANCHERRY POLICE STATION DATED ANNEXURE 2 TRUE COPY OF REMAND REPORT FILED BY THE PROSECUTION

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