

Suresh vs State of Kerala

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Court : Kerala

Decided On : Jul-31-2023

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

Appeal No. : Bail Appl./5346/2023

Appellant : Suresh

Respondent : State of Kerala

Advocate for Pet/Ap. : Sri. Gokul D. Sudhakaran

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
MONDAY, THE 31ST DAY OF JULY 2023 / 9TH SRAVANA, 1945 IN
CRIME NO.2034/2021 OF SREEKARIYAM POLICE STATION,
THIRUVANANTHAPURAM PENDING BEFORE THE ADDITIONAL
SESSIONS JUDGE FOR THE TRIAL OF CASES RELATING TO
ATROCITIES AND SEXUAL VIOLENCE AGAINST WOMEN AND
CHILDREN, THIRUVANANTHAPURAM AS S.C. NO.478/2022.
PETITIONER/ACCUSED: XXXX BY ADVS. GOKUL D. SUDHAKARAN
VAISHNAV DATH S. ARAVIND BABU A.S RESPONDENTS/STATE &
COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY THE

PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031. 2 SUB INSPECTOR OF POLICE, SREEKARYAM POLICE STATION, SREEKARYAM, THIRUVANANTHAPURAM-695 011. ADV. C.S. HRITHWIK, SENIOR PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.07.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

ORDER

Dated this the 31st day of July, 2023 The petitioner is the sole accused in Crime No.2034/2021 of Sreekaryam Police Station which was registered for the offences punishable under Section 376(3) of IPC and Section 3(b) read with Sections 4, 5(k) read with Sections 6, 7 read with Sections 8, 9(k)(l) read with Sections 10, 11(iii) read with Section 12 of the POCSO Act.

2. The prosecution case is that, on 26.12.2021 at

9.30 p.m., the accused, who was the neighbour of the de facto complainant took the victim, a person who is suffering from mental illness, to his house and thereafter, committed penetrative sexual assault. The crime was registered in such circumstances and as part of the investigation, the petitioner was arrested on 31.12.2021, since then, he was under judicial detention. Even though he approached the Special Court seeking bail, the said application was dismissed. This application is submitted in such circumstances. -3-

3. Heard Sri. Gokul D. Sudhakaran, learned counsel for the petitioner and Sri. C.S. Hrithwik, learned Senior Public Prosecutor for the State.

4. Learned counsel submitted that the petitioner is

innocent of all the allegations and is falsely implicated the case. It is also submitted that he is under custody since 31.12.2021 and more than 500 days are over since his arrest. There is no purpose in keeping the petitioner under judicial detention.

5. On the other hand, the learned Public Prosecutor

opposes the said application by pointing out that there are specific allegations against the petitioner and the release of the petitioner on bail at this juncture would affect the fair trial as he is likely to influence the witness.

6. When the matter came up for consideration on

19.07.2023, a report was called for from the Special Court, as to the status of the trial of the case which is pending before the said court as S.C. No.478/2022 and also the probable time that may require to complete the trial of the same under normal circumstances. In response to the said -4- order, a report dated 22.07.2023 has been placed on record wherein, it is mentioned that, trial of the said case is scheduled on 5 days from 21.08.2023 to 25.08.2023. It is also reported that the trial can be completed within two months from 21.08.2023.

7. Coming to the materials placed on record, it can

be seen that there are specific allegations against the petitioner, which would prima facie establish a crime. In such circumstances, taking note of the report of the Special Court to the effect that the trial can be completed within two months, the release sought for by the petitioner at this stage cannot be granted. In such circumstances, even though this application for bail cannot be allowed, it is ordered that, every endeavour shall be taken by the Special Court to complete the trial within the time mentioned in the report submitted by the Special Court before this Court dated 22.07.2023. Sd/- ZIYAD RAHMAN A.A. JUDGE bpr -5- APPENDIX OF B.A. NO.5346/2023 PETITIONER'S ANNEXURES ANNEXURE-I TRUE COPY OF THE F.I.R. IN CRIME NO.2034/2021 OF SREEKARYAM POLICE STATION DATED 30.12.2021. ANNEXURE-II TRUE COPY OF THE ORDER DATED 09.03.2023 ISSUED BY THE HON'BLE ADDITIONAL SESSIONS JUDGE FOR THE TRIAL OF CASES RELATING TO ATROCITIES AND SEXUAL VIOLENCE AGAINST WOMEN AND CHILDREN, THIRUVANANTHAPURAM IN CRL.M.P.NO.519/2023 IN S.C. NO.478/2022. ANNEXURE-III TRUE COPY OF THE WOUND CERTIFICATE ISSUED FROM THE MEDICAL COLLEGE HOSPITAL, THIRUVANANTHAPURAM DATED

30.12.2021.

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