

Niyas, vs State of Kerala,

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Court : Kerala

Decided On : Nov-30-2023

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./10265/2023

Appellant : NIYAS,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
THURSDAY, THE 30TH DAY OF NOVEMBER 2023 / 9TH
AGRAHAYANA, BAIL APPL. NO. 10234 OF 2023 CRIME NO.791/2023
OF PERAMBRA POLICE STATION, KOZHIKODE CRMC 1864/2023 OF
DISTRICT COURT & SESSIONS COURT,KOZHIKODE
PETITIONERS/ACCUSED 1 AND 2: 1 NIYAS, AGED 30 YEARS S/O
SHAMSUDHEEN, CHITTAKKADUPADIYATHIL VEEDU, THAZHAVA P.
O, KARUNAGAPALLY, KOLLAM DISTRICTS, PIN - 690523 REMOVED
FROM THE PARTY ARRAY AS PER

ORDER DATED 22-11-23 IN CRL MA 1/23

2 SAIDH MUHAMMED AL KAHAR, AGED 32 YEARS S/O THANGALKUNJU, T.S NIVAS, SOUTH MAINAGAPALLY, P O KOLLAM, KOLLAM DISTRICT, PIN - 691001 BY ADVS. OMAR SALIM NEETHU S. ASHISH ABY DAVID A.N.BIJU
RESPONDENT/STATE: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2
STATION HOUSE OFFICER, PERAMBRA POLICE STATION, KOZHIKODE DISTRICT, PIN - 673525 - : 2 :- OTHER PRESENT: M.C.ASHI-PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: - : 3 :-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
THURSDAY, THE 30TH DAY OF NOVEMBER 2023 / 9TH AGRAHAYANA, BAIL APPL. NO. 10265 OF 2023 CRIME NO.791/2023 OF PERAMBRA POLICE STATION, KOZHIKODE PETITIONER/ACCUSED NO.1: NIYAS, AGED 30 YEARS S/O SHAMSUDHEEN, CHITTAKKADU PADIYATHIL VEEDU, THAZHAVA P.O, KARUNAGAPALLY, KOLLAM, PIN - 690523 BY ADVS. AMEENA.R E.RAFEEK SOHAIL MOHAMMED ANSARY
RESPONDENT/COMPLAINANT: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: - : 4 :-

ORDER

These applications are filed u/s 439 of the Code of Criminal Procedure seeking regular bail.

2. The applicants are the accused Nos.1 and 2 in Crime No.791 /2023 of Perambra Police Station. The offences alleged are punishable under Sections 364, 342, 326, 307 r/w 34 of IPC.

3. The prosecution case, in short, is that on 23.09.2023 at

02.00 p.m., applicants along with the remaining accused abducted the de facto complainant in a car bearing registration No.KL 23 V 8142, assaulted on his head using beer bottle, glass etc., with intention to kill him and thereby committed the offences.

4. I have heard Smt.Ameena.R and Sri.Omar Salim, the learned counsel for the applicant Nos.1 and 2 and Sri.M.C.Ashi, the learned Public Prosecutor. Perused the case diary.

5. The learned counsel for the applicants submitted that the

applicants are innocent and have been falsely implicated in the present case. The counsel further submitted that no materials are on record to connect the applicants with the alleged crime; hence, they are entitled to get bail. On the other hand, the learned Public - : 5 :- Prosecutor submitted that the alleged incident occurred as a part of the intentional criminal acts of the applicants, and they are not entitled to bail at this stage.

6. The applicants were remanded to judicial custody on

25.09.2023. The investigation is almost over. A reading of the FIS would show that the de facto complainant on his own entered into the car. It is also revealed from the FIS that the de facto complainant consumed alcohol at the time of incident. The learned Prosecutor submitted that there are criminal antecedents against the accused No.2. However considering the fact that they are in custody for the last more than 60 days, I am inclined to grant bail to the applicants.

In the result, these applications are allowed on the following conditions: -

(i) The applicants shall be released on bail on executing a bond for Rs.1,00,000/- (Rupees One lakh only) each with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Magistrate/Court.

(ii) The applicants shall fully co-operate with the investigation. - : 6 :-

(iii) The applicants shall appear before the investigating officer between 10.00 a.m and 11.00 a.m every Saturday until further orders. They shall also appear before

the investigating officer as and when required.

(iv) The applicants shall not commit any offence of a like nature while on bail.

(v) The applicants shall not 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.

(vi) The applicants shall not leave the State of Kerala without the permission of the trial Court.

(vii) The applicants shall not enter into the limits of Perambra until further orders.

(viii) The application, if any, for deletion/modification of the bail conditions or cancellation of bail on the grounds of violating the bail conditions shall be filed at the jurisdictional court. Sd/- DR.KAUSER EDAPPAGATH, JUDGE AS

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