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Shihab, 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./10366/2023

Appellant : Shihab,

Respondent : State of Kerala,

Advocate for Pet/Ap. : Sri. E.Vijin Karthik

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, CRIME NO.674/2023 OF PEECHI POLICE STATION, THRISSUR CRMC 1679/2023 OF DISTRICT COURT & SESSIONS COURT,THRISSUR PETITIONERS/ACCUSED NOS.1 TO 3: 1 SHIHAB, AGED 45 YEARS S/O.HAMEED, VALIYATHPARAMBIL HOUSE, MUNDATHIKODE DESOM, PANANCHERY VILLAGE, THRISSUR, PIN - 680652 2 NELSON K.F., AGED 40 YEARS S/O. FRANCIS, KANNAMBUZA HOUSE, VATTAKKALLLU DESON, OLLUKARA VILLLAGE, 3 SHEHEER, AGED 42 YEARS S/O. HAMSA,

NELLIPARAMBIL HOUSE, VATTAKKALLLU DESON, OLLUKARA VILLAGE, BY ADVS. E.VIJIN KARTHIK JITHIN VARGHESE RESPONDENT/STATE: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM,, PIN - 682031 BY SMT.T.V.NEEMA, SR.P.P. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: - : 2 :-

ORDER

The application is filed u/s 439 of the Code of Criminal Procedure seeking regular bail.

2. The applicants are the accused Nos.1 to 3 in Crime No.674/2023 of Peechi Police Station. The offences alleged are punishable under Sections 341, 294(b), 323, 324, 308, 506(ii) r/w 34 of IPC.

3. The prosecution case, in short, is that on 27.09.2023 at

6.55 p.m., the applicants wrongfully restrained the de facto complainant and assaulted him with an iron rod with intention to kill him and thereby committed the offences.

4. I have heard Sri. E.Vijin Karthik the learned counsel for the applicants and Smt.T.V.Neema, the learned Senior 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 - : 3 :- 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

29.09.2023. The learned Prosecutor submitted that the investigation is over and the final report has been filed. It is true that there are criminal antecedents against all the applicants. However, most of those cases are related to the year 2010-2014. For all these reasons, I do not find any reason to hold that the continued detention of the applicants is required for any purpose. Hence, the applicants are entitled to be released on bail.

In the result, the application is 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 not commit any offence of a like nature while on bail. - : 4 :-

(iii) 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.

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

(v) 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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