

**Devi vs State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1410108](https://sooperkanoon.com/1410108)

**Court :** Kerala

**Decided On :** Jan-05-2023

**Judge :** Honourable Mr.Justice Viju Abraham

**Appeal No. :** Bail Appl./10417/2022

**Appellant :** DEVI

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM  
THURSDAY, THE 5TH DAY OF JANUARY 2023 / 15TH POUSHA, 1944  
BAIL APPL. NO. 10417 OF 2022 AGAINST THE  
ORDER/JUDGMENTCMP 6927/2022 OF JUDICIAL MAGISTRATE OF  
FIRST CLASS ,KOTTAYAM CRIME NO.2100/2022 OF KOTTAYAM  
EAST POLICESTATION PETITIONERS/ACCUED NOS.1 TO 3:

1 DEVI,W/O SREEKADH @ VELU ,AGED 31 YEARS  
CHEMMANAMTHODE COLONY NEAR MEENKARA DAM,  
MUTHALAMADA1. PALAKKAD., PIN - 678507 AADHAR CARD  
NO.2839 1026 3526 2 THANKA @ THANKAYYA,W/O SIVA

@AYYAPPAN, AGED 26 YEARS AADHAR CARD NO.7335 2665 7487  
3 CHITHRA,W/O RAMESH @ THANKARAJ, AGED 28 YEARS  
AADHAR CARD NO.7278 7070 7934 BY ADVS. JOSEPH  
C.V.(CHELAKKATT),SHERRY J. THOMAS JOEMON  
ANTONY,ANTONY NILTON REMELO GOKUL DEVIS

RESPONDENT/STATE AND DEFACTO COMPLAINANT: STATE OF  
KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT  
OF KERALA,ERNAKULAM - 682031 OTHER PRESENT: PP:Seetha S  
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
05.01.2023, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING: BA No.10417 of 2022 2

**VIJU ABRAHAM, J.**

B.A. No.10417 of 2022 Dated this the 5th day of January, 2023

## **ORDER**

This is an application for regular bail.

2. Petitioners are accused Nos.1 to 3 in Crime No.2100 of 2022 of Kottayam East Police Station registered alleging commission of offences punishable under Sections 454, 461, 380 and 34 of the Indian Penal Code.

3. The nutshell of the prosecution case is that on 01.11.2022, at

about 11.30 a.m. the petitioners/accused with their common intention to commit theft, the 2nd petitioner/2nd accused break open the lock of a room situated in a three storied building having No.435 A situated in ward No. XVI of Kottayam Municipality near Kanjikuzhy bridge, along with accused Nos.1 and 3 and committed theft of water heater worth Rs.1,500/-, ceiling fan without leaf worth Rs.1,500/- and other scarp items worth Rs.3,000/-.

4. Petitioners submit that they have been falsely implicated in the

abovesaid crime and that they are in custody from 01.11.2022 onwards. It is submitted that since the recovery has already been effected, further detention of the petitioners is not required for the BA No.10417 of 2022 3 purpose of the investigation. Learned counsel for the petitioners submitted that the 2nd petitioner was pregnant and has now delivered a baby and both the mother and infant are in the prison as is evident from Annexure-A6.

5. Learned Public Prosecutor opposed the application for bail mainly contending that the petitioners broken the lock of the room and

committed theft. Learned Public Prosecutor upon instructions submitted that the 1st petitioner is involved in two other cases and one of the cases is pending as LP No.14 of 2022 due to her non- appearance. In reply to the said contention the learned counsel for the petitioner submitted that the 1st petitioner is already surrendered before the court and thereafter she is continuously appearing before the trial court. Learned Public Prosecutor upon instructions further submitted that petitioners 2 and 3 are not involved in any other cases.

Considering the facts and circumstances of the case and the nature of the allegations and also taking into consideration the detention of the petitioners from 01.11.2022 onwards, I am inclined to grant bail to the petitioners. But taking note of the criminal antecedents, the same shall only be on stringent conditions.

(i) The petitioners shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the like sum to the satisfaction of the jurisdictional court. BA No.10417 of 2022 4

(ii) They shall appear before the investigating officer in Crime No.2100 of 2022 of Kottayam East Police Station on all Saturdays at 11.00 a.m. till the filing of charge sheet.

(iii) They shall not leave the State of Kerala without getting prior permission from the jurisdictional court.

(iv) They shall not attempt to interfere with the investigation or to influence any witness in the abovesaid crime.

(v) They shall not involve in any other crime while on bail. If any of the aforesaid conditions are violated, the

investigating officer in Crime No.2100 of 2022 of Kottayam East Police Station may file an application before the jurisdictional court, for cancellation of bail. Sd/-  
VIJU ABRAHAM JUDGE cks

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