

Muneer vs State of Kerala

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Court : Kerala

Decided On : May-26-2022

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

Appeal No. : Crl.MC/333/2022

Appellant : Muneer

Respondent : State of Kerala

Judgement :

Crl.M.C.No.333/2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
THURSDAY, THE 26TH DAY OF MAY 2022 / 5TH JYASHTA, 1944
CRL.MC NO. 333 OF 2022 CRIME NO.31/2021 OF Nadapuram Police
Station, Kozhikode PETITIONER/ACCUSED NO.1: MUNEER, AGED 28
YEARS, S/O AHAMMAD, VARAKKANDY HOUSE, MUDAVANTHERI
POST, THUNERI, KOZHIKODE, PIN - 673 513. BY ADV S.K.SAJU
RESPONDENT/COMPLAINANT: STATE OF KERALA, REPRESENTED
BY PUBLIC PROSECUTOR HIGH COURT OF KERALA
REPRESENTING SHO OF POLICE NADAPURAM POLICE STATION,
KOZHIKODE DISTRICT, PIN - 682 031. THIS CRIMINAL MISC. CASE

HAVING COME UP FOR ADMISSION ON 26.05.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.M.C.No.333/2022 2

ORDER

This CrI. M.C. is filed by the petitioner, the accused No.1 in Crime No.31 of 2021 of Nadapuram Police Station, being aggrieved by Annexure-3 order passed by the Judicial First Class Magistrate Court-I, Nadapuram. As per the order impugned in this case, the prayer sought by the petitioner to release the passport and to go abroad, was dismissed.

2. Earlier, the petitioner was arrested in connection with the aforesaid crime and was released on bail, as per Annexure-1

order by this Court. One of the conditions imposed in the said order was to surrender the passport before the Jurisdictional

Magistrate. It was complied with by the petitioner. Later, C.M.P. No.2792 of 2021 was filed by the petitioner for release of passport and for permission to go abroad, which was declined. This CrI.M.C. is filed challenging the aforesaid order.

3. Heard Sri.S.K.Saju learned counsel for the petitioner and Sri. Hrithwik learned Public Prosecutor for the State. The CrI.M.C.No.333/2022 3

learned counsel for the petitioner submits that the petitioner was working abroad even prior to the registration of the alleged crime, and the surrender of their passport is causing serious prejudice to

him as he is deprived of his livelihood. On the other hand, the learned Public Prosecutor opposes the application above by highlighting that the investigation in this regard is not over, and some of the accused are yet to be traced out and arrested. In such circumstances, it is pointed out by the learned Public Prosecutor that permission for the petitioner to leave the country may affect the investigation.

4. On examination of the materials available on record, I am of the view that, merely because of the reason that a crime happened to be registered against the petitioner, he shall not be deprived of his livelihood. It is not disputed that the person is working abroad, and therefore he should be allowed to pursue his

avocation. As regards the apprehension voiced by the learned Public Prosecutor, I am of the view that the same can be addressed by incorporating appropriate conditions while granting Crl.M.C.No.333/2022 4

permission sought by the petitioner. Since this Court has already granted bail to the petitioner, it is evident that his physical presence is not required for the moment unless specifically required by the Investigating Officer. It is also to be noticed that even though there was a direction in the bail order to appear before the investigating Officer on all Saturdays, that was only for a period of two months or till the filing of the final report,

whichever is earlier. The said period is already over and therefore, some indulgence can be shown in favour of the petitioner.

5. In such circumstances, this Crl.M.C. is allowed, Annexure-3 order passed by the learned Magistrate is hereby set aside. Learned Magistrate shall release the passport to the petitioner subject to the following conditions:

1) The petitioner shall execute a bond for Rs.2,00,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. 2) Before leaving the country, the petitioner shall produce the travel documents, including the employer's details, his foreign Crl.M.C.No.333/2022 5

contact address, and phone number and Email ID, before the learned Magistrate and get formal permission from the court. 3) Upon submission of such application along with the documents mentioned above, the same shall be considered by the learned Magistrate and the learned Magistrate shall also decide the period during which the petitioner shall be permitted to go abroad.

Sd/- ZIYAD RAHMAN A.A. JUDGE DG/26.5.22 CrI.M.C.No.333/2022 6
APPENDIX OF CRL.MC 333/2022 PETITIONER ANNEXURES Annexure1 TRUE
COPY OF THE ORDER DATED 12.03.2021 IN B.A NO. 2224/2021 Annexure2
TRUE COPY OF THE PETITION FILED BY THE PETITIONER AS CMP NO.
2792/2021 Annexure3 CERTIFIED COPY OF THE ORDER DATED 17.11.2021 IN
CMP NO. 2792/2021

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