

Johny Y.N. vs State of Kerala

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Court : Kerala Orders

Decided On : Jan-31-2022

Judge : Honourable Mrs. Justice Shircy V.

Appeal No. : Bail Appl./475/2022

Appellant : Johny Y.N.

Respondent : State of Kerala

Judgement :

BAIL APPL. NO. 475 OF 2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SHIRCY V. MONDAY,
THE 31ST DAY OF JANUARY 2022 / 11TH MAGHA, 1943 BAIL APPL.
NO. 475 OF 2022 (CRIME NO.1423 OF 2021 OF PARASSALA PLICE
STATION, THRISSUR) PETITIONER/ACCUSED JOHNY Y.N. AGED 51
YEARS S/O. NESAMONY, ASWATHY BHAVAN, NEAR RC CHURCH,
KUZHICHANI, KEEZHAKOLLA, CHENKAL VILLAGE,
THIRUVANANTHAPURAM DISTRICT. BY ADV N.P.RENJITH RAO
RESPONDENTS/STATE AND COMPLAINANT

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031. 2 CIRCLE INSPECTOR OF POLICE PARASSALA POLICE STATION, (CRIME NO.1423/2021), PARASSALA, THIRUVANANTHAPURAM - 695502. BY ADVS. SHRI.P.NARAYANAN, ADDL.PUBLIC PROSECUTOR OTHER PRESENT: SR.PP-SRI.SAJJU S. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BAIL APPL. NO. 475 OF 2022 2

ORDER

This second application for bail is filed by the petitioner who has been charged for having committed offences punishable under Sections 302, 364, 342, 323, 326 in Crime No.1423 of 2021 of Parassala police station, Thiruvananthapuram District.

2. The petitioner has been in custody since 27.6.2021.

3. The FIR would reveal the following facts: The petitioner and the deceased Thomas were persons known

to each other. The petitioner was entertaining enmity towards him as he used tease him quite often. Because of his enmity with the intention to cause his death he invited him and took him to his residence on 24.6.2021 in his motor cycle and wrongfully confined him in his house where he was residing alone and attacked him brutally. With the intention to cause his death he inflicted several fatal injuries on the vital parts of his body and that resulted in his death. Thus the petitioner intentionally caused his death.

4. Heard both sides.

5. This application is moved by the petitioner contending that his further detention in custody is quite unnecessary as investigation of the case is over. BAIL APPL. NO. 475 OF 2022 3

6. But the learned Public Prosecutor vehemently opposed the

application pointing out that there are no changes to the circumstances of the case so as to entertain this application as his earlier bail application was dismissed by this Court taking into consideration of the nature of accusation and nature of supporting evidence involved in the case.

7. True that a second application for bail can be considered only

if there are substantial changes to have a fresh look to the facts and circumstances of the case. At the outset it is to be noted that the earlier application filed as B.A.No.8759 of 2021 was dismissed by this Court by an order dated 17.12.2021 while the case was pending for committal proceedings. Now also committal proceedings are not over .

8. The material on record would reveals that a gruesome

murder has been committed by the petitioner because of his enmity towards the deceased. The deceased was taken to the residence of the petitioner and he inflicted grave and fatal injuries on him with the intention to cause his death and thereafter, he sought for the assistance of some of his friends to conceal the body with the intention to cause disappearance of evidence. But nobody rendered assistance to him accepting his request. Those persons are also cited

BAIL APPL. NO. 475 OF 2022 4

as witnesses to the case and they are key witnesses to prosecution. At the outset it is to be noted that, no supervening circumstance has been made out at this stage by the petitioner to give prime importance to his personal liberty. Even now committal proceedings are not over and so, there is absolutely no change to the circumstances of the case so as to have a fresh look to entertain the second application for his release on bail.

9. Bail was denied to him mainly considering the apprehension

expressed by the prosecution regarding the possibility of tampering with the witnesses by putting them under threat and coercion. When there is possibility of interdicting fair trial, bail has to be rejected. Taking into account of the peculiar

factual scenario, I find that he is not entitled to be released on bail at this stage as requested by the learned counsel on behalf of the petitioner. Therefore, I conclude that this petition is only to be dismissed. Dismissed. Sd/- SHIRCY V JUDGE smm

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