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Vipin vs State of Kerala

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Court : Kerala

Decided On : Jun-30-2022

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Bail Appl./3247/2022

Appellant : VIPIN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS THURSDAY, THE 30TH DAY OF JUNE 2022 / 9TH ASHADHA, 1944 (CRIME NO.232/2022 OF VELLIKULANGARA POLICE STATION, THRISSUR) PETITIONER/ ACCUSED :

1 VIPIN, AGED 36 YEARS, S/O.VIJAYAN P.R., THRISSUR DISTRICT, PIN - 680 721 2 VIJAYAN, AGED 65 YEARS, THRISSUR DISTRICT - 680 721 3 VALLIKKUTTY, AGED 63 YEARS, THRISSUR DISTRICT - 680 721 4 VIJITHA, AGED 30 YEARS, D/O.VIJAYAN P.R. & W/O. VIJAYAKUMAR K.S., PUNCHAPARAMBAN HOUSE, VETTILAPPARA P.O. CHALAKKUDY TALUK, ATHIRAPPILLY VILLAGE, THRISSUR

DISTRICT - 680 721, NOW RESIDING AT KALAPPURAKKAL HOUSE, P.O. PULLUR, MUKUNDAPURAM TALUK, PULLUR VILLAGE, THRISSUR DISTRICT - 680 683 BY ADVS. SANTHOSH P.PODUVAL R.RAJITHA CHITHRA S.BABU

RESPONDENT/ STATE : STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682 031 BY SMT. M. K. PUSHPALATHA, PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

=-=-=-=-=-=-=-=-=-=-=-=- B.A.No.3247 of 2022 =-=-=-=-=-=-=-=-=-=-=
Dated this the 30th day of June, 2022

ORDER

This is an application seeking pre-arrest bail filed under Section 438 of the Code of Criminal Procedure, 1973.

2. Petitioners are the accused in Crime No.232/2022 of

Vellikulangara Police Station, Thrissur District registered for offences under Section 498A of the Indian Penal Code and Section 92(a)(c) of the Rights of Persons with Disabilities Act, 2016.

3. Prosecution alleges that the first petitioner married one Sandra,

who was physically a differently abled lady. Subsequent to the marriage, petitioners harrassed her mentally and physically demanding money as dowry and due to the said harrassment, she committed suicide by setting herself on fire on 18.03.2022 and thereby the accused committed the offences alleged against them.

4. Sri.Santhosh P.Poduval, the learned counsel for the petitioners

contended that the death of the wife of the first accused was on account of various other factors unrelated to any act on the part of the petitioners and that the petitioners are totally innocent. It was further stated that the 2nd petitioner died due to old age during the pendency of this application and hence this application as far as the 2 nd petitioner is concerned has become infructuous. The learned counsel further pointed out that even immediately after the death, the relatives of the deceased had no complaint against any person and that the petitioners ought not to be subjected to any incarceration.

5. Smt.M.K.Pushpalatha, the learned Public Prosecutor opposed the

grant of pre-arrest bail and stated that the presumption under Section 304B IPC arises in the instant case since the marriage between the first petitioner and the deceased took place only on 02.11.2021 while the death occurred on 18.03.2022.

6. I have considered the rival contentions. This bail application survives only as regards petitioners 1, 3 and 4 since the 2 nd petitioner had expired in the meantime.

7. The marriage between the first petitioner and the deceased took

place on 02.11.2021 and within five months, the death of the wife of the first petitioner had taken place. Taking note of the circumstances, I am of the view that grant of pre-arrest bail to the first petitioner is not proper at this juncture especially since the investigation is only at the initial stages. However as far as petitioners 3 and 4 are concerned, they are

the mother and sister of the first petitioner. Their role in the alleged offence is very minimal. I am satisfied that they ought to be released on pre-arrest bail.

8. Accordingly while allowing this application for petitioners 3 and 4

on conditions, I dismiss this application as relating to the first petitioner. However, if the first petitioner surrenders before the Investigating Officer on any day within the next seven days, he shall be subjected to interrogation and if the Investigating

Officer proposes to arrest him, he shall be produced before the jurisdictional court without further delay and if any application for bail is filed, the same shall be considered in accordance with law preferably on the same day itself.

The petitioners 3 and 4 are granted pre-arrest bail on the following conditions :-

(i) Petitioners 3 and 4 shall appear before the Investigating Officer as and when required and shall also co-operate with the investigation.

(ii) Petitioners 3 and 4 shall not commit any offence while they are on bail.

(ii) Petitioners 3 and 4 shall not leave India without the

permission of the Court having jurisdiction. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with the law, notwithstanding the bail having been granted by this Court. This bail application as far as the first petitioner is concerned is dismissed and that of petitioners 3 and 4, shall stand allowed. Sd/- BECHU KURIAN THOMAS, JUDGE RKM

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