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Samkumar vs State of Kerala

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Court : Kerala Orders

Decided On : May-27-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./3799/2022

Appellant : Samkumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY, THE 27TH DAY OF MAY 2022 / 6TH JYAISHTA, 1944 CRIME NO.1119 OF 2021 OF YEROOR POLICE STATION, KOLLAM DISTRICT PETITIONER/ACCUSED: SAM KUMAR, AGED 42 YEARS, S/O SASIDHARAN PILLAI, SYAM VILASOM, EDAKOCHI, VILAKKUPARA, AYIRANALLOOR, ERNAKULAM DISTRICT - 682 010. BY ADV P.ANOOP (MULAVANA) RESPONDENT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA - 682 031. BY SRI.SAJJU. S. (SR.PP) THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27.05.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application for regular bail.

2. Petitioner is the accused in Crime No.1119 of 2021 of

Yeroor Police Station, Kollam District, alleging commission of offence under Section 302 of the Indian Penal Code. The allegation against the petitioner is that on 22.12.2021 at about 06.00PM, the accused caused death of his wife by hacking her with a sword and there by he committed the offence alleged against him.

3. The learned counsel for the petitioner would submit that

the petitioner is absolutely innocent in the matter. It is submitted that the petitioner has been in custody for 154 days and there is no reason to continue him in custody as the final report has already been filed in the matter. It is submitted that admittedly there were various disputes between the petitioner and the deceased. It is submitted that the continued incarceration of the petitioner is a violation of his rights under Article 21 of the Constitution of India.

4. The learned Public Prosecutor opposes the grant of the

bail. The circumstances of the case appearing against the petitioner are pointed out. It is submitted that the murder was committed by the petitioner in a most brutal fashion and 50 antemortem injuries were found on the body of the deceased. It is submitted that the murder was committed in the presence of two minor children of the petitioner aged 15 and 12 and they are eye witnesses. It is submitted that the release of the petitioner on bail will not be conducive as there is every chance of these eye witnesses being influenced in the matter. It is submitted that this will clearly affect the trial. It is submitted that earlier at the instance of the deceased an earlier case had been registered against the petitioner for attacking and injuring her and this crime was committed after obtaining bail in that case.

5. Having regard to the facts and circumstances of the case

and considering the nature of the allegations and taking into account the fact that the murder was committed in a most brutal fashion in the presence of two minor children of the petitioner, who are eye witnesses to the incident, I am of the view that the petitioner is not entitled to bail as the apprehension expressed by the learned Public Prosecutor that these children who are eye

witnesses may be influenced or intimidated in the matter of giving evidence appears to be genuine. In the result, this bail application will stand dismissed. Sd/- GOPINATH P. JUDGE DK

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