

Aneesh Mohan vs State of Kerala

Aneesh Mohan vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1486017

Court : Kerala Orders

Decided On : Jun-30-2022

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Bail Appl./4298/2022

Appellant : Aneesh Mohan

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 BAIL APPL. NO. 4298 OF 2022 CRIME NO.636/2022 OF POOYAPPALLY POLICE STATION, KOLLAM RURAL PETITIONER/NOT AN ACCUSED: ANEESH MOHAN AGED 27 YEARS, S/O MOHANAN MANEESH BHAVANAM, PUTHOOR P.O., KOLLAM, PIN - 691507 BY ADVS. SRI. K.P.SATHEESAN (SR) SRI.P.MOHANDAS (ERNAKULAM) SRI.K.SUDHINKUMAR SRI.S.K.ADHITHYAN SRI.SABU PULLAN SRI.GOKUL D. SUDHAKARAN RESPONDENTS/STATE & COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH

COURT OF KERALA, ERNAKULAM, KOCHI, PIN - 682031 2 THE SUB INSPECTOR OF POLICE POOYAPPALLY POLICE STATION, KOLLAM DISTRICT, PIN - 691507 BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27.06.2022, THE COURT ON 30.06.2022 PASSED THE FOLLOWING: B.A. No.4298/22 -:2:-

BECHU KURIAN THOMAS, J.

----- B.A. No.4298 of 2022 -----

Dated this the 30th day of June, 2022

ORDER

Petitioner is the accused in Crime No.636 of 2022 of Pooyappally Police Station, Kollam Rural. The said crime has been registered alleging offences under sections 306 of the Indian Penal Code, 1860.

2. According to the prosecution, a young girl of 22 years,

who was already betrothed to the petitioner, committed suicide on 27.04.2022 and the petitioner is alleged to have abetted the suicide thereby committing the offences alleged against him.

3. Sri.K.P.Satheesan, learned Senior Counsel instructed by

Adv.K.Sudhinkumar contended that the marriage of the petitioner with the deceased was fixed and an engagement ceremony was held on 17.02.2022. The learned Senior Counsel further contended with vehemence that there is absolutely no evidence of any abetment of suicide as against the petitioner and that merely because the deceased committed suicide, the same

B.A. No.4298/22 -:3:- by itself cannot amount to the commission of any offence by the petitioner. The learned counsel relied upon the decisions in Sukumaran and Another v. State of Kerala (2022 (1) KHC 427), Badusha Nishad v. State of Kerala and Others (2018

(4) KHC 243), Ramesh Kumar v. State of Chattisgarh (2002

KHC 346), Sanju Alias Sanjay Singh Sengar v. State of M.P. (2002 KHC 1270) and Madan Mohan Singh v. State of Gujarat and Another (2010 KHC 4581) and urged that to constitute the offence of abetment of suicide, there must be proof of instigation, or intentional aiding or at least a direct act

of incitement to the commission of the offence. He further contended that the suicide notes seized from the room of the deceased by itself would not attract the offence of section 306 of the IPC and hence, the petitioner cannot be mulcted with any liability. The learned Senior Counsel also pointed out that in the absence of any circumstance to show that the petitioner instigated or urged or incited the deceased to commit suicide,

petitioner cannot be proceeded against and in such circumstances the grant of pre-arrest bail is essential to protect the liberty of the petitioner.

4. Sri.K.A.Noushad, learned Public Prosecutor on the other B.A. No.4298/22 -:4:-

hand contended that petitioner had clearly instigated the commission of suicide and has hence committed the act of abetment of suicide. He further pointed out that there were at least five suicide notes written by the deceased and that the

death by hanging occurred while the petitioner was in conversation over telephone with the deceased, which clearly indicates the possibility of incitement or aiding the commission of offence. He further pointed out that the investigation carried out so far has revealed that the petitioner had on several occasions instigated the deceased to go and die, which clearly amounts to goading of the offence. The learned Prosecutor also pointed out that if custodial interrogation is not permitted to be carried out, the investigation will be disabled from unraveling the truth of the matter and hence the grant of pre-arrest bail would prejudice the prosecution case.

5. I have perused the case diary and have noticed the

statements recorded by the police till date. Petitioner is also alleged to have been conversing over mobile phone with the deceased at the time she committed

suicide and the prosecution alleges that the petitioner had on several earlier occasions asked her to go and die. The suicide notes alleged to be written by the B.A. No.4298/22 -:5:- deceased, refers allegedly to the petitioner as the person responsible for her death. Of course, those factors by themselves may not amount to the offence of abetment of suicide.

6. However, when the abovementioned factors are

appreciated along with the alleged telephone call which was in progress while the deceased committed suicide, this Court is of the opinion that the crime requires custodial interrogation to bring out the true circumstances. Though the young age of the petitioner is an aspect that needs consideration, still, the factors involved in the present crime can be brought out only through custodial interrogation. Whether there was any conduct on the part of the petitioner that constituted abetment and whether those would have singularly or cumulatively amounted to a formidable or a compelling conduct as to lead to the commission of suicide is a matter which needs to be probed into during the

investigation. Disarming the investigation at this stage in the aforesaid circumstances, from custodial interrogation would prejudice the entire case.

7. The decisions cited by the learned Senior Counsel all pertain to the facts in those cases. The decisions in Madan B.A. No.4298/22 -:6:- Mohan Singh's case, Sanju Alias Sanjay Singh Sengar's case and Ramesh Kumar's case were all instances that were

considered by the court after trial. The consideration of circumstances during and even after trial is different from those required at the time of considering a pre-arrest bail application. As far as the decision on Badusha Nishad's case is concerned, the facts can clearly be distinguished as there was nothing to indicate any direct act or aiding by the petitioner therein. The situation in the present case is different, at least prima facie.

8. In such circumstances, I am satisfied that this is not a fit case where the petitioner can be shielded by the grant of a pre-arrest bail, notwithstanding his

young age. Accordingly, I dismiss this bail application. Sd/- BECHU KURIAN
THOMAS JUDGE vps /True Copy/ PS to Judge

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com