

Harikumar 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./4547/2022

Appellant : Harikumar

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. 4547 OF 2022 [CRIME NO.424/2022 OF Yeroor Police Station, Kollam] PETITIONER/ACCUSED: HARIKUMAR AGED 48 YEARS SON OF THANKAPPAN PILLAI, KAIVALYAM, NEAR AYILARA H.S., AYILARA, KOLLAM DISTRICT, PIN - 691 312 BY ADV A.SANIL KUMAR RESPONDENTS/COMPLAINANTS : 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031. 2 STATION HOUSE OFFICER YEROOR POLICE STATION, KOLLAM DISTRICT, PIN - 691312. BY ADVS.C.K.SURESH, SR.PP. PUBLIC PROSECUTOR

ADDL.DIRECTOR GENERAL OF PROSECUTION(AG-11) 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.4547 of 2022 Dated this the 30 th day of June, 2022

ORDER

This is an application for regular bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. Petitioner is the accused in Crime No.424 of 2022 of Yeroor Police Station registered for the offence punishable under Section 306 of the Indian Penal Code, 1860.

3. The prosecution case is that, on 31.05.2022, the wife of

the petitioner committed suicide by setting herself ablaze after pouring kerosene over her body allegedly due to the harassment meted out by the petitioner. According to the prosecution, the harassment amounted to abetment of suicide and, hence, the crime is registered against the petitioner.

4. Sri.S.Anil Kumar, the learned counsel, submitted that

petitioner is a retired military personal and that the marital relationship of the petitioner with the deceased lasted more than 22 years. According to the counsel, even if there were bickerings in the marriage, as in any relationship, the same cannot be sufficient to constitute abetment of suicide, much less any offence as committed by the petitioner. He further submitted that petitioner having been arrested on 01.06.2022, the continued incarceration was not necessary.

5. Sri.C.K.Suresh, the learned Public Prosecutor, vehemently

opposed the grant of regular bail and pointed out that the statement of the witnesses clearly prove the involvement of the petitioner in the crime. It was further pointed out that the continuous harassment by the

petitioner resulted in the deceased taking the extreme step of dousing herself in kerosine and setting her on fire. According to the learned Public Prosecutor, despite the petitioner having been arrested on 01.06.2022, prejudice will be caused to the investigation, which is not yet completed, if petitioner is released on bail.

6. I have considered the rival contentions and perused the case diary.

7. Taking note of the fact that the petitioner is alleged to have committed the offence of abetment of suicide and considering the statement of the de facto complainant, I am of the view that the continued detention of the petitioner is not required. The courts have repeatedly

held that abetment of suicide involves a mental process of

instigating a person or intentionally aiding a person in the doing of a thing and without a positive act on the part of the accused to instigate or aid in committing suicide, the offence under Section 306 of IPC may not be sustainable.

8. Having regard to the circumstances, the continued detention of the petitioner is not required. Therefore, the petitioner is entitled to be released on bail.

9. In the result, this application is allowed on the following conditions:-

(i) Petitioner shall be released on bail on his executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the court having jurisdiction.

(ii) Petitioner shall appear before the Investigating Officer as and when required;

(iii) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he tamper with the evidence.

(iv) Petitioner shall not commit any offence while he is on bail.

(v) Petitioner shall not leave India without the permission of the Court having jurisdiction.

(vi) Petitioner shall not enter into the jurisdictional limits of the Yeroor Police Station, Kollam; till the investigation is completed.

10. 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. Sd/- BECHU KURIAN
THOMAS JUDGE AMV/30/06//2022

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