

Ajith vs State of Kerala

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Court : Kerala Orders

Decided On : Sep-30-2022

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./6045/2022

Appellant : AJITH

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
FRIDAY, THE 30TH DAY OF SEPTEMBER 2022 / 8TH ASWINA, 1944
BAIL APPL. NO. 6045 OF 2022 AGAINST THE ORDER/JUDGMENTSC
260/2021 OF DISTRICT COURT & SESSIONS COURT,TRIVANDRUM
CRIME NO.4214/2020 OF VENJARAMOODU POLICESTATION,
THIRUVANANTHAPURAM PETITIONERS/ACCUSED 5 AND 6:

1 AJITH,AGED 27 YEARS,S/O SASI ASARI, RESIDING AT
PULLAMBARA VILLAGE, MUKKUDIL DEOM, NEAR MUKKUDIL
DESOM, CHARUVILA PUHEN VEEDU, VENJARAMOODU,
NEDUMANGADU TALUK, THIRUVANANTHAPURAM DISTRICT, , PIN -

695607 2 SHAJITH,AGED 27 YEARS,RESIDING AT PULLAMBARA VILLAGE, MUKKUDIL DEOM, NEAR MUKKUDIL DESOM, CHARUVILA PUHEN VEEDU, VENJARAMOODU, NEDUMANGADU TALUK, THIRUVANANTHAPURAM DISTRICT, PIN - 695607 BY ADVS. J.R.PREM NAVA S. S. S. S. S.

RESPONDENT/STATE: STATE OF KERALA REPRESENTED PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM DISTRICT, PIN - 682031 BY ADVS. PUBLIC PROSECUTOR ADDL.DIRECTOR GENERAL OF PROSECUTION(AG-11) OTHER PRESENT: SR.PP - SRI. C.K.SURESH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30.09.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BA No.6045 of 2022 2

VIJU ABRAHAM, J.

..... B.A.No. 6045 of 2022
..... Dated this the 30th day of
September, 2022

ORDER

This is an application for regular bail.

2. Petitioners are accused Nos.5 and 6 in Crime No.2414 of

2020 of Venjaramoodu Police Station, Thiruvananthapuram District registered alleging commission of offences punishable under Sections 120B, 143, 147, 148, 341, 294(b), 323, 324, 302, 109, 201 and 212 read with Section 149 of the Indian Penal Code and Section 27 of the Arms Act.

3. The case of the petitioners is that they are in custody from

31.08.2020. The final report is already laid, and therefore the continued detention of the petitioners is not required for the purpose of the investigation. No overt act is alleged against the petitioners.

4. The learned Additional Director General of Prosecution

seriously opposed the application for bail. The Prosecutor submits that the deceased and the accused belong to two different political parties and the accused had hostility against the deceased. The petitioners conspired to take the life of the deceased and pursuant to the said conspiracy they murdered both victims. The petitioners had an active role

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in the act of the other accused in as much as they had specific motives and active participation in murder of the two victims. It is the case of the prosecution that the charge sheet specifically shows that the root cause of the case in hand is the attack against CW1 by the petitioners and A1 on 17.04.2022 and a case was registered by Venjaramoodu police. Thereafter second case was registered after the retaliation of deceased Huq Muhammed and CW1 and in that incident the second petitioner sustained injuries. The third episode of the political clash happened on 25.5.2020. The second petitioner along with A1 and A4 attacked CW35 with sword and stick and he sustained injuries and thus attempted to murder the victim of that case. As per the charge sheet the third episode is the immediate cause of the attack against the victims of the case at hand. The case records revealed that within a month the petitioners got involved in three cases including the present case. It is submitted that the petitioners were involved in this case even after steps against them taken under Section 107 Cr.P.C. and also including them in the "Roudy History Sheet. The present case is the consequence of tension between the two major political parties. At the area of the incident, which is the locality of petitioners and deceased, volatile situation still exists and the peace is kept there with strong police presence. The case records show that the death of the victims was the result of criminal conspiracy involved by the petitioners. The existing hostility of the two political groups, the prevailing law and order condition of the locality and the allegations against the

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petitioners in the case at hand show that the release of the petitioners will definitely disturb the existing peace maintained in the locality by the police protection. Considering the antecedents of the petitioners, the chance for repeating similar offence by them cannot be ruled out. There is ample evidence to prove that petitioners were part of the conspiracy and further that petitioners themselves were involved in two crimes earlier of which the present crime is a continuation. It is seen that the petitioners committed the present offence after getting released on bail in the first case and again hatched a criminal conspiracy to eliminate the deceased due to political vengeance. Even though the counsel for the petitioners would submit that there is no allegation that the petitioners have been directly involved in the actual commission of the offence, it is the case of the prosecution that there is evidence to prove that they were part of conspiracy for murdering the two victims. It is a case where murder has been committed due to political vengeance. Petitioners are directly involved in the earlier two crimes, the present crime being the continuation of the same.

5. It is settled law that long period of incarceration of the

accused or the unlikelihood of concluding the trial in the near future cannot be a reason for the grant of bail. The present crime is committed only due to political vengeance. Taking into consideration the active role of the petitioners in the commission of the earlier two crimes and had an active role in the conspiracy to commit the present crime, and also

BA No.6045 of 2022 5 finding considerable force in the contention of the learned Public Prosecutor that there is every occasion for repeating similar offence and intimidating the witnesses, I am of the view that petitioners are not entitled for grant of bail at this stage. The bail application is accordingly dismissed. Considering the fact that the charge sheet is already laid and further that petitioners are under detention for long, it is the trial court shall take earnest steps to complete the trial of the case without much delay. Sd/- VIJU ABRAHAM JUDGE
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