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Sujithran vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1538221

Court : Kerala Orders

Decided On : Sep-30-2022

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./7421/2022

Appellant : Sujithran

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. 7421 OF 2022 CRIME NO.203/2022 OF KASABA POLICESTATION, PALAKKAD PETITIONER/ACCUSED NO.9: SUJITHRAN AGED 32 YEARS S/O. SUNDARAN, NADUVIL VEEDU, ANAPPARA, KOTTEKKAD P.O., PALAKKAD - 678732 BY ADVS. K.ANAND AMEER SALIM BENNY ANTONY PAREL RESPONDENTS/STATE & COMPLAINANT: 1 STATE OF KERALA REP. BY PUBLIC PROSECUTOR. HIGH COURT OF KERALA, ERNAKULAM - 682031 2 THE STATION HOUSE OFFICER KASABA POLICE STATION, PALAKKAD DISTRICT - 678622 BY ADVS. ADVOCATE GENERAL OFFICE KERALA ADDL.DIRECTOR GENERAL

OF PROSECUTION(AG-11)

OTHER PRESENT: ADGP - SRI. GRACIOUS KURIAKOSE THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30.09.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BA No.7421 of 2022 2

VIJU ABRAHAM, J.

..... B.A.No.7421 of 2022 ..... Dated this the 30th day of September, 2022

ORDER

This is an application for regular bail.

2. The petitioner is arrayed as the 9th accused in Crime No. 203

of 2022 of Kasaba Police Station, Palakkad District. The offences alleged against the petitioner/9th accused are under Sections 120 (B), 109, 118 and 34 read with Section 302 of the Indian Penal Code.

3. The prosecution allegation in brief, is that due to the previous

enmity towards the deceased person, on 15.04.2022 at 13.20 hours, the accused Nos.1 to 4 formed themselves into an unlawful assembly, in furtherance of their common object, armed with deadly weapons, hit the car into the bike on which the deceased and father were returning from the mosque and thereafter accused Nos.1 and 2 slashed the deceased with weapons that they were carrying and the deceased thereafter died due to his injuries. Thus the accused persons are alleged to have committed the abovesaid offences.

4. It is submitted that the petitioner was arrested on 06.05.2022 and he is in judicial custody for more than 136 days. Petitioner moved an application for bail before the Judicial First Class Magistrate Court- I, BA No.7421 of 2022 3

Palakkad and the same was dismissed as per Annexure A. Later, he preferred an application for bail before the Court of Sessions, Palakkad and the same was also dismissed as per Annexure B. The specific case of the petitioner is that investigation is over and the continued detention of the petitioner is not needed for the purpose of the investigation. Even going by the prosecution allegation, the petitioner is not involved in the actual commission of the offence and it is submitted that the allegation against the petitioner is solely based on the statement of CW80.

5. Learned Additional Director General of Prosecution seriously

opposed the application for bail. He would submit that the present crime is a retaliation to the murder of one Sanjith on 15.11.2021 and in the present crime one Muhammed Subair who is a leader of the rival political party was murdered, and in the alleged incident, the father of the deceased also sustained injuries including fracture of his leg. Going by the prosecution allegation, the 1st accused hit the car driven by him on the motorcycle of the deceased, and accused Nos.1 to 3 hacked him to death. As per the postmortem report, there are 74 ante-mortem injuries. The learned Additional Director General of Prosecution further submitted that on the very next day of the murder of the deceased another worker of the rival political party, one Sreenivasan was hacked to death and Crime No. 318 of 2022 of Palakkad Town Police Station was registered. The Additional Director General of Prosecution would further submit that even though the serious overt act of attacking the deceased with dangerous weapons is on

accused Nos.1 to 3, the investigation reveals that the petitioner has a very active role in the conspiracy which was hatched out to murder the deceased who was a leader of the rival political party. The statement of CW80 reveals the active role of the petitioner and the other accused in the conspiracy to commit the murder. Learned Additional Director General of Prosecution further submits that conspiracy was hatched out on various occasions, i.e., on 19.11.2021, 08.01.2022, 30.01.2022, 06.03.2022 and 08.04.2022. The CDR details reveal that the petitioner was present along with the other accused in the conspiracy hatched out

on 19.11.2021, 08.01.2022, 30.01.2022 and 06.03.2022. The learned Additional Director General of Prosecution submits that there is sufficient evidence against the petitioner for having been involved in the conspiracy to commit the murder. It is further submitted on behalf of the prosecution that accused Nos.1, 2, 5, 6, 8, and 9 (the petitioner herein) are involved in various other crimes. To the said submission, learned counsel for the petitioner submits that he has been acquitted in both the earlier cases. The Learned Additional Director General of Prosecution further submits that there exists serious communal tension as an aftermath of the said crime and the police had to labour much so as to bring the situation under control, at least to a certain extent. Therefore, it is further submitted that the petitioner who is having an active role in the commission of the offence and who has criminal antecedents if released on bail, there is every chance for the commission of similar offences and also to intimidate and

BA No.7421 of 2022 5 threaten the witnesses and also to flee from justice.

6. It is seen that the present murder is one among the series of

murders that happened in the locality due to political vengeance. Going by the postmortem report, it is seen that the deceased has been murdered in a very brutal manner. I find considerable force in the submission of the learned Additional Director General of Prosecution that if the petitioner is released on bail, there is every chance for repetition of similar offences and also to threaten the witnesses, which will again lead to serious communal unrest in the area. The gravity of the offence, the manner in which the offence was committed, its impact on society, and the possibility of accused persons tampering with evidence and influencing the witnesses are all relevant matters for consideration while considering the bail application.

Taking all these aspects into consideration, I am of the opinion that the petitioner cannot be granted bail at this stage. Therefore, the bail application is accordingly dismissed. Sd/- VIJU ABRAHAM JUDGE cks

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