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Arundas vs State of Kerala

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Court : Kerala Orders

Decided On : Feb-22-2021

Judge : Honourable Mrs. Justice Shircy V.

Appeal No. : Bail Appl./1116/2021

Appellant : Arundas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SHIRCY V. MONDAY, THE 22ND DAY OF FEBRUARY 2021 / 3RD PHALGUNA, 1942 Bail Appl..No.1116 OF 2021 CRIME NO.1993/2020 OF Pooyapally Police Station, Kollam PETITIONER/ACCUSED: ARUNDAS AGED 34 YEARS O DASAN, PALLIMELETHIL VEEDU, VAPPALA MURI, ODANAVATTOM PO, KOLLAM DISTRICT BY ADV. SRI.H.PRAVEEN (KOTTARAKARA) RESPONDENT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA R1 BY PUBLIC PROSECUTOR R1 BY DIRECTOR GENERAL OF PROSECUTION OTHER PRESENT: PP-- C N PRABHAKARAN . THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON

10.02.2021, THE COURT ON 22.02.2021 PASSED THE FOLLOWING:

ORDER

Dated this the 22nd day of February, 2021 Application for regular bail.

2. Petitioner is the accused in Crime No. 1993 of 2020 of Pooyapally Police Station registered for the offence punishable under Section 302 of Indian Penal Code.

3. The petitioner has been in custody since 28.11.2020.

4. The prosecution allegation is as follows: The petitioner married the deceased about 10 year

back and they lived as husband and wife. W

she had undergone treatment in the intensive care unit for few days, she succumbed to the injury on 5.11.2020. On investigation, it was revealed that the accused had kicked on her abdomen and caused very serious and fatal internal injury and due to the impact of the said assault by him, she died on 5.11.2020 inspite of the treatment imparted to her as an inpatient in Azeezia Medical College Hospital, Meeyannoor, Kollam.

5. The learned counsel for the petitioner has submitted that he is totally innocent of the allegations

levelled against him. In fact she was kicked by a goat and she sustained injury when she fell into a ditch in the said incident but the petitioner has absolutely no connection with the alleged incident and he is undergoing unnecessary incarceration right from 28.11.2020.

6. The learned Public Prosecutor has produced the CD file for perusal. The CD file would reveal that the deceased had sustained injuries on 31.10.2020. The petitioner has taken her to a hospital by name 'Jaimatha Hospital' at Odanavattom on the next day, i.e. on 1.11.2020. Though the hospital authorities were ready to provide treatment to her, the petitioner had taken her from

there and thereafter took her to the

College Hospital, Meeyannoor and while she was undergoing treatment in the said hospital, she succumbed to the injury at about 10.45 p.m. on 5.11.2020. The postmortem certificate which is available in the CD file would reveal that the injury sustained by her was not because she fell on a ditch as she was kicked by a goat or something like that but she had sustained injury due to kicking with foot or by punching with a clenched fist. So, the CD file would reveal that the injury sustained by her was not as narrated by the learned counsel for the petitioner. It further reveals that she sustained injury in a kick on her abdomen by the petitioner, her husband. Such being the prima facie finding by the investigating agency, at this stage, if bail is granted to this petitioner, there is every possibility

to tamper with the evidence. A detailed probe int

disclosed to her father, who visited her in the hospital while she was undergoing treatment as to how she sustained the fatal injury. The father of the deceased has expressed his suspicion regarding the cause of death mainly on her disclosure statement to him and he had even stated that his daughter died because of the cruel treatment and physical assault by her husband, the petitioner. From the CD file it is also revealed that most of the witnesses to the prosecution are the relatives of the petitioner as well the deceased. So, there is a strong possibility of the petitioner interfering with the investigation or winning over the prosecution witnesses which may result in miscarriage of justice. Considering the nature of the offences alleged against this petitioner, I do not think that it is proper to release him on bail just considering

the duration of judicial custody undergone by him.

unearth the real facts involved in this case.

6. Hence, I think that at this stage it is not proper to grant bail to this petitioner though he has been languishing in jail for more than two months. Dismissed. Sd/- SHIRCY V. JUDGE sb

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