

Rashik K. vs State of Kerala

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Court : Kerala

Decided On : Oct-01-2021

Judge : Honourable Mrs. Justice Shircy V.

Appeal No. : Bail Appl./7122/2021

Appellant : Rashik K.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SHIRCY V. FRIDAY,
THE 1ST DAY OF OCTOBER 2021 / 9TH ASWINA, 1943 CRIME NO.47
OF 2021 OF TIRUR POLICE STATION, MALAPPURAM
PETITIONER/ACCUSED :- RASHIK K. AGED 27 YEARS SON OF
MOIDEEN, KANNATH HOUSE, CHAMNRAVATTOM, TRIPANGOD,
MALAPPURAM - 679 577. BY ADV P.C.ANIL KUMAR
RESPONDENT/STATE :- STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM -
682 031. SREEJA.V- SR.PP THIS BAIL APPLICATION HAVING COME
UP FOR ADMISSION ON 01.10.2021, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

ORDER

Application for pre-arrest bail.

2. The petitioner is the sole accused in Crime No.47 of

2021 of Tirur Police Station, Malappuram District registered for the offences punishable under Section 379 of the Indian Penal Code r/w Section 20 & 23 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001.

3. The prosecution case is that on 19.01.2021, the petitioner

was found illegally transporting river sand in a Tata Sumo bearing Registration No.KL 02 P 6100, without any pass or authorizing documents, by the police. On seeing the police, the petitioner fled away from the spot, so he could not be apprehended then and there, though the vehicle was seized for illegal removal of river sand. Thereby, the petitioner has committed the aforesaid offences.

4. Heard the learned counsel for the petitioner as well the learned Public Prosecutor.

5. According to the learned counsel for the petitioner, he has

not committed the offences as alleged by the prosecution. Though he is the driver of the vehicle, he is totally innocent of the allegations levelled against him. But he apprehends unnecessary arrest and hence, this application.

6. The learned Public Prosecutor has submitted that the vehicle

was seized by the police with river sand. Though, the petitioner was engaged with illegal removal of the sand from the river, he could not be arrested as he fled away from the spot abandoning the vehicle. Now the investigation of the case is going on smoothly.

7. The petitioner has no criminal antecedents. Moreover, I could

not find any materials available on record to infer that custodial interrogation of this petitioner is quite necessary for the prosecution to proceed with the investigation of the case. Such being the case, I think that this application can be disposed of directing the petitioner to surrender before the investigating officer. Therefore, the petitioner shall surrender before the Investigating Officer on 11.10.2021 between 10 a.m and 11.00 a.m. Upon his surrender, after interrogation and recording his arrest, he shall be released on bail subject to the following conditions:

(i) The petitioner shall be released on bail on executing a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties for the like sum each to the satisfaction of the investigating officer.

(ii) He shall appear before the Investigating Officer for interrogation as and when required by him, in writing.

(iii) He shall co-operate with the investigation and trial of the case.

(iv) He shall not directly or indirectly, make any

inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence. (v) He shall not commit any offence while on bail. In case of violation of any of the above conditions, the learned Magistrate/Judge is empowered to cancel the bail in accordance with the law. Sd/- SHIRCY V. JUDGE mpm

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