

Moly vs State of Kerala

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Court : Kerala

Decided On : Dec-07-2021

Judge : Honourable Mrs. Justice Shircy V.

Appeal No. : Bail Appl./8898/2021

Appellant : MOLY

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SHIRCY V. TUESDAY, THE 7TH DAY OF DECEMBER 2021 / 16TH AGRAHAYANA, 1943 BAIL APPL. NO. 8898 OF 2021 CRIME NO.2508/2021 OF Kothamangalam Police Station, Ernakulam AGAINST THE ORDER IN CRMC 2390/2021 OF II ADDITIONAL DISTRICT COURT, ERNAKULAM CRMP 2308/2021 OF JUDICIAL FIRST CLASS MAGIST.COURT, KOTHAMANGALAM (TEMPORARY) PETITIONER/ACCUSED: MOLY, AGED 55 YEARS W/O. P.M.JOY, PUTHANPURACKAL HOUSE, SOCIETYPPADY BHAGAM, MALIPPARA KARA, PINDIMANA VILLAGE, NOW RESIDING AT RENTED HOUSE OF VARGHESE AT PUTHUKKAYIL HOUSE, CHENKARA MUDIYARA BHAGAM, MALIPPARA KARA, PINDIMANA

VILLAGE, KOTHAMANGALAM, ERNAKULAM DISTRICT BY ADVS. ABU MATHEW ROY THOMAS (MUVATTUPUZHA) AJU MATHEW RESPONDENT/RESPONDENT: STATE OF KERALA THROUGH INSPECTOR OF POLICE, KOTHAMANGALAM POLICE STATION, ERNAKULAM DISTRICT, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 BY ADV ADDL.DIRECTOR GENERAL OF PROSECUTION SR.PP SRI. C.K. SURESH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07.12.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Dated this the 7th day of December, 2021 The petitioner, who is the 3rd accused in Crime No. 2508 of 2021 of Kothamangalam Police Station registered for the offences punishable under Sections 326, 302, 201 read with 34 of Indian Penal Code, has moved this application for her release on bail as she is undergoing incarceration since 13.10.2021.

2. The brief facts of the case are as follows:

The 1st accused, the husband of this petitioner, had borrowed a sum of Rs.3,00,000/- from the deceased. When he demanded back the money, he failed to repay the same as promised by him. The deceased insisted him to repay the same and infuriated by the compulsion of the deceased to return the money, he was invited to the residence as if he is ready to return the money. With the hope that he will receive the money, he reached at the residence of the accused at about 10.30 p.m. on 10.10.2020. When he reached there, accused No.1 inflicted fatal injuries on him by using an axe. His skull was fractured and when he fell down, accused Nos. 1 and 2 together put him in a bike bearing Registration No. KL-44-D-915 and pushed him into a nearby canal. On the next morning it was found that the deceased succumbed to the injuries. Thereafter, this petitioner along with the other accused had destroyed the mobile phone

of the deceased, the weapon used by the 1st accused to inflict fatal injuries on the deceased by fire to cause disappearance of evidence and the ash was thrown to the drainage and washed out the same and thus committed the offence under Section 201 read with Section 34 of IPC.

3. The petitioner is a lady aged 55 years. She is the wife

of the 1st accused and the mother of the 2nd accused. It is submitted by the learned counsel for the petitioner that she has absolutely no role or participation in the incident as alleged by the prosecution. She has been falsely implicated in the case by the prosecution. Now, she is suffering from various ailments, as she is languishing in jail.

4. This application is opposed by the learned Public

Prosecutor relying on the fact that she was very much present in the house when the incident had taken place and when she realized that the deceased was murdered, she had destroyed the entire evidence with the intention to save the other accused and to conceal and cause disappearance of evidence and thereby she has committed the aforesaid offences.

5. Presently, the records would reveal that the

investigation of the case is over and charge sheet has been submitted and it is pending as C.P. No. 17 of 2021 before the Judicial First Class Magistrate Court-I, Kothamangalam. The petitioner has been in custody since 13.10.2021. Considering the nature of the accusation levelled against her as well the fact that the investigation of the case is over and charge sheet has been filed, I find that further detention of this petitioner may not be necessary. So also, considering the fact that she is a lady aged 55 years, I am inclined to release her on bail. Therefore, this application is allowed subject to the following conditions:

(i) The petitioner shall be released on bail on her executing a bond for a sum of Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the court having jurisdiction.

(ii) The petitioner shall not enter into the limits of Kothamangalam Police Station for a period of six months.

(iii) The petitioner 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 before the court.

(iv) The petitioner shall not commit any offence while on bail. In case of violation of any of the above conditions, the jurisdictional court is empowered to cancel the bail in accordance with the law. Sd/- SHIRCY V. JUDGE sb

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