

Azad, vs State of Kerala,

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Court : Kerala

Decided On : Dec-31-2021

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./9404/2021

Appellant : AZAD,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
FRIDAY, THE 31ST DAY OF DECEMBER 2021 / 10TH POUSHA, 1943
BAIL APPL. NO. 9404 OF 2021 CRIME NO.1110/2021 OF Chittur Police
Station, Palakkad AGAINST THE ORDER IN CRMC 3359/2021 OF
SESSIONS COURT, PALAKKAD CRMP 3831/2021 OF JUDICIAL
MAGISTRATE OF FIRST CLASS, CHITTUR

PETITIONER/ACCUSED: AZAD, AGED 25 YEARS S/O. SALUDHEEN,
ASHA MANZIL, ATHIMANI, VANDITHAVALAM, PATTENCHERRY,
PALAKKAD DISTRICT. BY ADV NIREESH MATHEW
RESPONDENT/COMPLAINANT: STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-

682 031 BY ADV. SRI.PRASANTH M.P. PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.12.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:2:-

ORDER

Dated this the 31st day of December, 2021 This is an application filed u/s 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioner is the accused in Crime No.1110/2021 of Chittur Police Station. The offences alleged are under Sections 363 and 306 of the Indian Penal Code.

3. The prosecution case in short is that on 16/11/2021,

the niece of the de facto complainant, aged 14 years, committed suicide by hanging at her residence at about 9.00 a.m. It is alleged that the accused under the pretext of love affair with the deceased, kidnapped her from her lawful guardianship at 12 O'clock in the night on 13/11/2021 and on the way, they were apprehended by the police. The police took the deceased and the accused to the police station and got the presence of the parents

of the deceased and sent her along with her parents. Subsequently, the accused made the relatives of the deceased to believe that it was she who called the accused to her residence at -:3:- the odd time which was believed by the relatives. So, she wrote a suicide note and committed suicide. According to her, the accused is the sole person responsible for her suicide. By doing so, the accused committed the offences punishable under the above sections.

4. Heard both sides and perused the case diary.

5. The learned counsel for the petitioner submitted that

the petitioner is absolutely innocent and he has been falsely implicated in the present case. He further submitted that there are no materials to connect the petitioner with the alleged crime and hence he is entitled to get bail. The learned

Public Prosecutor opposed the bail application. He contended that the alleged incident occurred as a part of the intentional criminal acts of the petitioner and if the petitioner is released on bail at this stage, it would affect the course of investigation.

6. Perusal of the case diary would reveal that prima facie

there are materials on record to connect the petitioner with the crime. However, the petitioner was remanded to judicial custody on 17/11/2021. In view of the nature of the crime and the stage of investigation, I do not find any reason to hold that the -:4:-

continued detention of the petitioner is required for any purpose. The investigation seems to have reached a fair stage. On a perusal of the allegations in the FI statement, it is doubtful whether Section 306 will be attracted. There is no statement in the suicide note that directly or indirectly the petitioner abetted her to commit the suicide. The other Section 363 of IPC is bailable. For all these reasons, the petitioner is entitled to be released on bail on conditions.

In the result, the application is allowed on the following conditions:-

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

(ii) The petitioner shall fully co-operate with the investigation.

(iii) The petitioner shall appear before the investigating

officer between 10.00 a.m and 11.00 a.m on every Saturday until further orders. The petitioner shall also appear before the investigating officer as and when required by him. -:5:-

(iv) The petitioner shall not commit any offence of like nature while on bail.

(v) The petitioner shall not make any attempt to contact any of the prosecution witnesses, directly or through any other person, or any other way try to tamper

with the evidence or influence any witnesses or other persons related to the investigation.

(vi) The petitioner shall not leave State of Kerala without the permission of the trial Court. Sd/- DR. KAUSER EDAPPAGATH JUDGE Rp

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