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Sethurajan vs State of Kerala,

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Court : Kerala

Decided On : Apr-11-2020

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : Bail Appl./1282/2020

Appellant : Sethurajan

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE RAJA VIJAYARAGHAVAN V SATURDAY, THE 11TH DAY OF APRIL, 2020 /22ND CHAITHRA, 1942 Bail Appl.No.1282 OF 2020 CRIME NO.162/2020 OF POOYAPPALLY POLICE STATION, KOLLAM DISTRICT PETITIONER/ACCUSED: SETHURAJAN, AGED 54 YEARS, S/O SADASIVAN, POIKAVILAVEEDU, MARUTHAMONPALLY, POOYAPPALLY VILLAGE, KOLLAM DISTRICT-691537. BY ADV.SRI.M.KIRANLAL RESPONDENT/COMPLAINANT-STATE: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN-682 031. BY PUBLIC PROSECUTOR SRI.AMJAD ALI THIS BAIL APPLICATION HAVING

COME UP FOR ADMISSION ON 11.04.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BA 1282/2020 2

ORDER

This application is filed under Section 439 of the Cr.P.C.

2. The applicant herein is the accused in Crime No.162 of 2020 registered at the Pooyappailly Police Station registered under Sections 326 & 307 of IPC.

3. Heard the learned counsel appearing for the applicant and the learned Public Prosecutor through Video Conferencing.

4. I have considered the submissions advanced and have gone through the records which are made available.

5. The records made available reveal that the applicant was arrested

on 01.02.2020 and substantial part of the investigation has been completed. It is trite that the requirement for bail is to secure the attendance of the prisoner and it is the duty of the court to admit the accused to bail, wherever practical, unless BA 1282/2020 3 there are strong grounds for supposing that such persons would not appear to take the trial. A presumed innocent person is entitled to have his freedom in the form of bail to enable him to establish his innocence at the trial. (See G.Narasimhulu v. Public Prosecutor [AIR 1978 SC 29]). As held in Nikesh Tarachand Shah v. Union of India [2018 (11) SCC 1, grant of bail is the rule and refusal is an exception and an accused person who enjoys freedom will be in a much better position to defend himself than if he were in custody.

6. I also take note of the fact that the Nation is facing an

unprecedented and extraordinary outbreak of a pandemic and all steps are being taken to ensure that the Court premises do not contribute to the spread of the deadly virus which has taken the life of many people. A lockdown has been imposed and the citizens therein have been advised to practice social distancing and to quarantine themselves. The Honble Supreme Court as well as this Court

have suggested measures to reduce the physical presence of lawyers, litigants, court staff, paralegal personnel in courts across the country. Directions have also BA 1282/2020 4 been issued to decongest the Jails. Directing the appearance of the petitioner in the court below and insisting him to produce sureties and execute bonds will definitely have an adverse effect. In that view of the matter, I am of the considered opinion that the applicant herein can be granted provisional bail for a period of 30 days from today. In the result, this application will stand allowed. The Superintendent of the jail wherein the applicant is incarcerated is directed to release the applicant provisionally on bail for a period of 30 days on the applicant executing a personal bond without sureties. The above order shall be subject to the following conditions:

> i. The applicant shall furnish an undertaking before the Superintendent of Jail concerned detailing the permanent place of his abode and the contact numbers of himself and his near relative. He shall undertake that he shall strictly comply with the lockdown imposed and the various directives issued by the Central as well as the State Government and that he

BA 1282/2020 5 shall remain in quarantine for a period of 30 days or such extended period as may be notified. ii. The Superintendent of Jail shall intimate the release of the applicant to the Station House Officer of the Police Station which has registered the crime.

> iii On being released from prison, the applicant shall report before the jurisdictional police station and shall furnish a copy of the undertaking furnished before the Jail Superintendent. The SHO concerned shall ensure that the applicant does not leave the premises, where he has undertaken to remain in quarantine till such time the lockdown period continues in force, otherwise than for emergent situations

iv. The applicant shall not tamper with the evidence or influence the witnesses in any manner whatsoever. v. The applicant shall not commit any offense while on

bail. vi. On the expiry of 30 days, ordered as above, or within three days of the withdrawal of the lockdown by the Government, whichever is earlier, the applicant shall appear before the jurisdictional Court and seek regular bail and the Court shall consider his application on its merits and pass appropriate orders.

BA 1282/2020 6 If the applicant violates any of the conditions above, the Station House Officer may approach the jurisdictional Court and may move an application for cancellation of bail, which shall be considered and disposed of by the said Court, notwithstanding the fact that interim bail has been granted by this Court. SD/- RAJA VIJAYARAGHAVAN.V. JUDGE ps/11/4/2020 //TRUE COPY// P.S. TO JUDGE

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