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Riyas vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1752138

Court : Kerala

Decided On : Apr-17-2020

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./1648/2020

Appellant : RIYAS

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT: THE HONOURABLE MR.JUSTICE C.S. DIAS FRIDAY, THE 17TH DAY OF APRIL 2020/28TH CHAITHRA, 1942 [Crime No. 36/2020 of Poochakkal Police Station, Alappuzha District] Petitioner/Accused Riyas, aged 24 years, S/o. Nisamudheen Jasmine Manzil Thrichattukulam P.O, Panavally Cherthala By Adv.John Jude Issac Respondent/State and Complainant

1. State of Kerala

2. Police Sub Inspector, Poochakkal Police Station Both respondents are represented by Public Prosecutor, High Court of Kerala, Ernakulam By Public Prosecutor Sri.Amjad Ali THIS B.A. HAVING BEEN FINALLY

HEARD ON 17.04.2020, THE COURT ON THE SAME PASSED THE FOLLOWING:

ORDER

This application is filed under Sec.439 of the Code of Criminal Procedure.

2. The petitioner is the accused in crime

No.36/2020 of Poochakkal Police Station. The petitioner is alleged to have committed offences punishable under Secs 143,147, 148, 341, 324, 326,307 and 120(b) read with Sec.149 of the Indian Penal Code.

3. Prosecution case against the petitioner, in

brief, is that the petitioner and the other accused hatched a conspiracy to do away with the husband of the defacto complainant. They formed an unlawful assembly with deadly weapons and in furtherance of their common object, on 21.1.2020, they wrongfully restrained the injured and attacked him with a knife. The petitioner is alleged to have assaulted the injured with an iron rod.

4. The petitioner was arrested on 23.1.2020.

5. Heard the learned counsel for the petitioner and the learned Public Prosecutor, through video conferencing.

6. The learned counsel for the petitioner argued that the petitioner was arrested on 23.1.2020. The accused Nos 4 and 5 have already been granted bail by this Court in B.A No.1646/2020. Similarly, the tenth accused has been granted bail by this Court in B.A No.2287/2020. Likewise, accused nos 1,7,8,9 and 11

have also been granted bail by the Sessions Court. The learned counsel submits that the further detention of the petitioner is unnecessary. He prays that the bail application be allowed.

7. The learned Public Prosecutor opposed the application.

8. The Hon'ble Supreme Court in Nikesh Tarachand

Shah v. Union of India [2018 (11) SCC 1] has declared thatgr

position to defend himself rather than being in custody.

9. In view of the Covid-19 pandemic outbreak in the

country, the Hon'ble Supreme Court in WP(C) No.1/2020 as well as a Full Bench of this Court in WP(C) 9400/2020, has issued exhaustive guidelines to de-congest jails in the country.

10. Having considered the facts and circumstances of

the case, especially the fact that this Court has already granted bail to the accused Nos 4,5, and 10 in the aforenumbered bail applications and also in view of the

guidelines issued by the Hon'ble Supreme Court and the Full

Bench of this Court, I am inclined to grant bail to the petitioner.

11. In the result, the bail application is allowed on the following conditions:

(i) The Superintendent of Jail where the

> petitioner is incarcerated is directed to release the petitioner on furnishing his phone number and the phone number of his immediate relative. The Superintendent of jail shall verify the above details and release the petitioner to the Station House Officer of the Police Station which has registered the crime, who in turn shall release the petitioner.

(ii) The petitioner shall within one week

from the re-opening of the court, if not already re-opened, execute a bond for a sum of Rs.50,000/- with two solvent sureties for the like sum each to the satisfaction of the jurisdictional court.

(iii) The petitioner shall appear before the Investigating Officer on all Saturdays between 10.00 a.m and 11 a.m till the final report/charge sheet is laid.

(iv) The petitioner shall not tamper with the evidence or influence the witnesses the case in any manner whatsoever.

(v) The petitioner shall not commit any office while on bail.

(vi) The petitioner shall not leave the country without the permission of the jurisdictional court.

12. Needless to mention that if the petitioner violates any of the conditions above, the Station House Officer shall be at liberty to approach the jurisdictional court and file appropriate applications, seeking for cancellation of bail. Sd/- C.S.DIAS JUDGE sks/17.4.2020

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