

Moosa vs State of Kerala

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Court : Kerala

Decided On : Oct-30-2020

Judge : Honourable Mr. Justice Ashok Menon

Appeal No. : Bail Appl./6761/2020

Appellant : MOOSA

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON
FRIDAY, THE 30TH DAY OF OCTOBER 2020 / 8TH KARTHIKA, 1942
CRIME NO.08/CB/MPM/07/2007 OF CBCID, MALAPPURAM,
Malappuram PETITIONER/S: MOOSA AGED 36 YEARS, SON OF
KOYA, MUSLIYARAKATH HOUSE, CHUNGATHARA, NILAMBUR
TALUK, MALAPPURAM DISTRICT - 679334. BY ADV. SRI.K.RAKESH
RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682031. 2
THE DEPUTY SUPERINTENDENT OF POLICE-II, DISTRICT CRIME
BRANCH, MALAPPURAM, MALAPPURAM DISTRICT - 676505. 3 THE
STATION HOUSE OFFICER EDAKKARA POLICE STATION,

MALAPPURAM DISTRICT - 679331. OTHER PRESENT:
SRI.C.K.SURESH, SR PP THIS BAIL APPLICATION HAVING COME
UP FOR ADMISSION ON 30.10.2020, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:

ORDER

Dated this the 30th day of October 2020 This is an application for anticipatory bail under Section 438 of Cr.P.C.

2. The applicant is the sole accused in Crime

No.205/2005 of Edakkara Police Station

an

Section 302 of the I.P.C.

3. The prosecution case, in brief, is that in the year 2005 the body of one Hydru, aged 75 years, was found near a shed adjoining the Edakkara forest area and it was revealed that he was murdered. The aforesaid crime was registered, but the investigation did not make much headway. The applicant was the prime suspect and he was called to the police station for the

purpose of the investigation, a number of times.

this Court by filing W.P.(C) No.12712/2020 and this Court directed that he shall not be harassed or subjected to third-degree methods and the investigating officer and other police officers were also directed to ensure that investigation is conducted in a scientific manner and that no attempt be made to extract a confession from the applicant using force.

4. It is submitted that now the prosecution is again requiring his presence for the purpose of investigation. And he fears that he may be subjected to harassment as well as torture and every attempt would be made to extract a confession from him. The applicant, therefore, approaches this Court for anticipatory bail.

5. Heard the learned Counsel for the applicant and the learned Public Prosecutor at much length.

6. The learned Public Prosecution has taken this Court through various statements and materials that have been collected to indicate the possible involvement of the applicant in the crime. It is pointed out that there are a number of contradictions in the statement, which he had given to the police. It is also stated that stains of human blood was discovered in one of the drawers of a table in his possession, which could have been there because he had

kept the money which was allegedly sto

investigation is in the final stage, and it has become essential to question the applicant with regard to the discovery of the aforesaid crucial piece of evidence. He was directed to appear on 13.09.2020, but he did not respond to the notice issued to him under Section 41A, Cr.P.C. The learned Public Prosecutor, therefore, submits that he may be directed to surrender before the investigating officer and has ensured that he will not be subjected to any third-degree method of investigation and shall be produced before the jurisdictional court at the earliest.

7. Considering the fact that it is a case of

murder and that there are only shreds of evidence collected by the investigating agency and that in 2007 the investigation was handed over to the Crime Branch and now that the investigation has made some headway, the applicant is under obligation to cooperate with the investigation. Therefore, the applicant is directed to surrender before the investigating officer within two weeks. In the event of his being arrested, after interrogation and recovery, if any, he shall be produced before the jurisdictional court without any delay, where he is at liberty to apply for regular bail, which shall be considered and disposed of expeditiously. With these observations, the bail application is disposed of. Sd/- dkr ASHOK MENON JUDGE

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