

Rajan Vs. State of Kerala, Rep. by the Sub Inspector of Police, Kochi

Rajan Vs. State of Kerala, Rep. by the Sub Inspector of Police, Kochi

SooperKanoon Citation : sooperkanoon.com/946855

Court : Kerala

Decided On : Jul-19-2011

Reported in : 2011(3)ILR(Ker)443; 2011(3)KLT88(SN)(C.No.88); 2011(3)KHC239

Judge : K.T. Sankaran

Appeal No. : Bail Appl. No. 5668 of 2011

Appellant : Rajan

Respondent : State of Kerala, Rep. by the Sub Inspector of Police, Kochi

Judgement :

This is an application for bail under Section 439 of the Code of Criminal Procedure. The petitioners are accused Nos.1 and 2 in Crime No.1457 of 2010 of Chalakudy Police Station, Thrissur District.

2. The offences alleged against the petitioners are under Sections 465, 466, 471, 472, 473 and 475 of the Indian Penal Code.

3. The petitioners were arrested on 19.5.2011 and they were remanded to judicial custody. Their application for bail was dismissed by this Court in B.A.No.4752 of 2011 on 23.6.2011. The learned single Judge who dismissed the Bail Application held that if the petitioners were released on bail, they would definitely influence and intimidate the prosecution witnesses. It was also held it was likely that the petitioners would make themselves scarce and flee from justice.

4. The prosecution case against the petitioners is that they stood as sureties for the accused in C.C.No.532 of 2010 on the file of the Court of the Judicial Magistrate of the First class, Chalakkudy and got the accused therein released on bail. For the purpose of furnishing security, the petitioners produced revenue receipts purportedly issued by two Village Offices. They also produced electoral identity cards before the Court to prove their identity. On verification by the learned Magistrate, it was found that the revenue receipts and the electoral identity cards were forged and fabricated ones. On a complaint made by the Sheristadar of the Court, Crime No.1457 of 2010 was registered. The petitioners were arrested. As stated earlier, their Bail Application was dismissed by the learned Magistrate as well as by this Court. Even after the dismissal of B.A.No.4752 of 2011, it would appear that the petitioners moved for bail before the trial court and that application was dismissed on 6.7.2011 by the learned Magistrate.

5. Learned Public Prosecutor submitted that after completing the investigation, charge sheet was filed on 20.5.2011.

6. If the petitioners are released on bail, there is every likelihood of the petitioners trying to influence the prosecution witnesses and to tamper with the evidence. As held in B.A.No.4752 of 2011, there is also a chance of the petitioners making themselves scarce. There is also a likelihood that if the petitioners are released on bail, another set of forged documents would be produced to get them released on bail. For the aforesaid reasons, the prayer for bail in the Bail Application is rejected.

7. In Criminal Courts thousands of Bail Applications would be dealt with and disposed of. The accused would be released on bail either on the basis of the affidavits filed by the sureties or on production of revenue receipts, electoral identity cards, title deeds or solvency certificates by the sureties. It would not be proper to verify the genuineness or otherwise of all the documents before issuing copy of the order in the Bail Application or before releasing the accused from

judicial custody. The urgency of the situation would warrant immediate release of the accused. The Courts would normally rely on the documents produced by the sureties. If the sureties produce forged documents and get release of the accused, the Criminal Courts would not be in a position to enforce the attendance of the accused. Even the sureties cannot be proceeded against since in some of the cases the

details furnished regarding sureties may be bogus. The proceedings in Bail Applications are taken and finalized on a mutual trust and confidence. If such trust and confidence is found out of place, it would affect the chances of getting bail urgently by other deserving accused. The practice of producing forged documents in Courts and getting release of the accused on the basis of such forged documents of the sureties should be curbed at any cost. If such cases are detected, a very strict approach is required, even in the matter of granting bail to the accused against whom allegation is levelled that they produced forged documents as sureties in another case.

8. Now the case is ready for trial as the charge sheet has been filed. The petitioners are in judicial custody. Precedence would be given to the cases where the accused are in judicial custody. There will be a direction to the Judicial Magistrate of the First Class, Chalakkudy to expedite the trial of the case arising out Crime No.1457 of 2010, Chalakkudy Police Station. It is made clear that in case a transfer of the case to another Court becomes necessary, the direction to expedite the trial of the case would be applicable to the transferee court as well.

9. It is made clear that the above observations should not be taken as a finding on the merits of the case against the accused.

The Bail Application is disposed of as above.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com