

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 11TH DAY OF AUGUST 2022 / 20TH SRAVANA, 1944

BAIL APPL. NO. 5558 OF 2022

[Crime No.1989 of 2021 of Palakkad Town South Police Station]

PETITIONER/ACCUSED NO.13:

SHAMSEER, AGED 26 YEARS
S/O.ABDUL LATHEEF, 12/210,
KANJIRAMCHOLA, CHUNANGAD,
OTTAPPALAM,
PALAKKAD DISTRICT, PIN - 679101
BY ADVS.
SUNNY MATHEW
NIKITTA TRESSY GEORGE

RESPONDENTS/COMPLAINANTS & STATE:

- 1 THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
COCHIN, PIN - 682 031.
- 2 THE STATION HOUSE OFFICER
TOWN SOUTH POLICE STATION ,
PALAKKAD DISTRICT, PIN - 679 101

BY ADVS.GRASHIOUS KURIAKOSE,
ADVOCATE GENERAL OFFICE KERALA
ADDL.DIRECTOR GENERAL OF PROSECUTION (AG-11)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
11.08.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

BECHU KURIAN THOMAS, J

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B.A.No.5558 of 2022

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Dated this the 11th day of August, 2022

ORDER

This is an application for regular bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. Petitioner is the 13th accused in Crime No.1989 of 2021 of Palakkad Town South Police Station registered for the offences punishable under Sections 120(b), 143, 144, 147, 148, 341, 302, 109, 118, 201, 212, 465, 471 r/w Section 149 of the Indian Penal Code, 1860 and also under Sections 27(3) r/w Section 7(a)(b) of Arms Act, 1959.
3. The prosecution alleges that on 15.11.2021 one Sanjith, who is an active worker of the RSS; was murdered, while he was traveling with his wife on a motorbike. Five accused, after forming themselves into an unlawful assembly armed with dangerous weapons, came in a Maruti car and rammed into the motorbike and thereafter hacked him to death. Petitioner is alleged to have taken part in the conspiracy to commit the murder and harboured three of the main accused involved in the crime, in a lorry and

thereby committed the offences alleged against him.

4. Sri.Sunny Mathew, the learned counsel for the petitioner, submitted that the prosecution case, as against the petitioner, is without any basis and the entire allegations are false. He further submitted that in any event, since the petitioner was arrested on 02.01.2022, considering the nature of allegations, the continued detention of the petitioner is not warranted. It was further submitted that no criminal antecedents are reported against the petitioner.
5. Sri.Grashious Kuriakose, the learned Addl.Director General of Prosecutions, on the other hand vehemently opposed the grant of bail and submitted that the incident leading to the death of Sri.Sanjith is part of a series of murders that had rocked the State. It was urged that an attempt to murder the deceased Sanjith on 26.07.2020, was followed by an attempt to murder one Zakhir Hussain on 26.07.2021 and concluded with the murder of the deceased on 15.11.2021, all of which reveals a preplanned political murder. Learned Addl.Director General of Prosecution further argued that even after the murder of the said Sanjith, two more murders took place on 15.04.2022 and

16.04.2022 and thus, the conspiracy in committing murders of political rivals is explicit. As far as setting the petitioner at liberty, it was argued that, the situation in Palakkad is very volatile and tense and release of the petitioner would create a serious problem of law and order. Learned Addl. Director General of Prosecution also argued that, the release of even one of the accused may be sufficient to trigger yet another series of murders and, therefore, considering the complex nature of the conspiracy and the events that occurred thereafter, the petitioner ought not to be released on bail.

6. I have considered the rival contentions.
7. Though the situation as projected by the learned Addl. Director General of Prosecution cannot be ignored, a reading of the charge preferred by the prosecution reveals that specific allegations of conspiracy to commit murder is not *prima facie* seen alleged against the petitioner. While precise allegations have been levelled against the remaining accused, there is a conspicuous absence regarding any conspiracy against the petitioner. However, a vague involvement of the petitioner in the conspiracy, is

mentioned towards the later half of the charge. Still, the specific overt acts alleged against the petitioner relates to harbouring of the offenders.

8. Section 212 of the Indian Penal Code, 1860 deals with harbouring of an offender and makes the said offence, by itself, bailable. Since the petitioner is alleged to have conspired to commit murder and is facing trial, the involvement of the petitioner in the conspiracy is a matter to be proved during trial.

9. However, since the petitioner has been under detention from 02.01.2022, taking note of the period of detention undergone, and the nature of allegations against the petitioner, I am of the view that the petitioner ought to be set at liberty, pending trial of the case. That said, the situation in the locality as pointed out by the learned Addl. Director General of Prosecutions ought to be borne in mind while imposing conditions. Therefore, the petitioner is entitled to be released on bail, but on strict conditions.

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

(a) Petitioner shall be released on bail on him executing a

bond for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the court having jurisdiction.

(b) Petitioner shall co-operate with the trial of the case.

(c) Petitioner shall not enter the jurisdictional limits of Palakkad District, except for the purpose of appearing for the trial, until further orders.

(d) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he attempt to tamper with the evidence.

(e) Petitioner shall not commit any similar offence while he is on bail.

(f) Petitioner shall surrender his passport before the jurisdictional court and shall not leave the country without the permission of the Court.

11. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with the law, notwithstanding the bail having been granted by this Court.

12. Taking note of the precarious situation as submitted to be prevailing in the locality, I am of the view that the

request of the learned Addl. Director General of Prosecution to expedite the trial is justified. Accordingly, I direct the learned First Additional Sessions Court, Palakkad, before whom S.C.No.662/2022 is pending consideration, to take steps to expedite the trial in the said case.

With the above observations, this bail application is allowed.

**BECHU KURIAN THOMAS
JUDGE**