



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 6TH DAY OF FEBRUARY 2024 / 17TH MAGHA, 1945

BAIL APPL. NO. 10447 OF 2023

CRIME NO.1202/2023 OF KOTTARAKKARA POLICE STATION, KOLLAM
AGAINST SC 1275/2023 OF I ADDITIONAL SESSIONS COURT, KOLLAM

PETITIONER:

SANDEEP,
AGED 42 YEARS, S/O. GOPINATHAN,
SREENILAYAM,
ODANAVATTAM-VILLAGE, KUDAVATOOR-MURI,
CHERURAKONAM POST, KOTTARAKARA TALUK,
KOLLAM DISTRICT, PIN - 695502

BY ADVS.
SRI.BIJU ANTONY ALOOR
SRI.K.P.PRASANTH
SMT.ARCHANA SURESH
SMT.HARITHA HARIHARAN
SMT.AILIN ELEZABATH MATHEW

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031
- *2 K.G. MOHANDAS
S/O. LATE K.K.GOPALAN, AGED 67 YEARS
NAMPICHIRAKALAYIL HOUSE,
MUTTUCHIRA P.O., ERAVIMANGALOM KARA,
MANJOOR VILLAGE, VAIKOM TALUK,
KOTTAYAM DISTRICT - 686613
- *3 T. VASANTHKUMARI
W/O. K.G.MOHANDAS, AGED 53 YEARS,
NAMPICHIRAKALAYIL HOUSE,
MUTTUCHIRA P.O., ERAVIMANGALOM KARA,
MANJOOR VILLAGE, VAIKOM TALUK,
KOTTAYAM DISTRICT - 686613



B.A. No.10447/23

:-2:-

*(ADDL. R2 & R3 ARE IMPEADED AS PER ORDER DATEE
31.01.2024 IN Cr1.M.App1. No.1/2024)

BY ADVS.

SRI.P.NARAYANAN, ADDITIONAL PUBLIC PROSECUTOR

SMT.NIKITA J. MENDEZ

SRI.GRASHIOUS KURIAKOSE, ADGP

SRI.P.M.RAFIQ

SRI.AJEESH K.SASI

SRI.M.REVIKRISHNAN

SMT.SRUTHY N. BHAT

SRI.RAHUL SUNIL

SMT.SRUTHY K.K

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
31.01.2024, THE COURT ON 06.02.2024 DELIVERED THE
FOLLOWING:



B.A. No.10447/23

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BECHU KURIAN THOMAS, J.

B.A. No.10447 of 2023

Dated this the 6th day of February, 2024

ORDER

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

2. Petitioner is the accused in S.C. No.1275/2023, pending before the Additional Sessions Court-I, Kollam. The aforesaid sessions case arises from Crime No.1202 of 2023 of Kottarakara Police Station.

3. The petitioner is alleged to have caused the death of one young lady Doctor by the name Dr.Vandana Das on 10.05.2023 after stabbing her with a pair of scissors, taken from the treatment room of Taluk Headquarters Hospital at Kottarakara and thereby committed the offences alleged under sections 341, 324, 333, 353, 506(ii), 307, 302 and 201 of the Indian Penal Code, 1860 (for short 'IPC') apart from sections 3 and 4 of the Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to



B.A. No.10447/23

-:4:-

Property) Act, 2012. Petitioner is also alleged to have committed an offence under section 5 of the Kerala Prevention of Damage to Private Property and Payment of Compensation Act, 2019.

4. Sri. B.A.Aloor, learned counsel for the petitioner, contended that since the date of the incident petitioner has been in custody, and the very long period of incarceration itself is sufficient to grant him bail. Learned counsel referred to the final report already filed in the instant case and stated that no purpose would be achieved by continuing the custody of the petitioner. The learned counsel also submitted that death occurred due to the failure to provide timely medical aid, and even if the prosecution allegations are admitted, the only offence that could be alleged against the accused is under section 308 of IPC, and hence his continued incarceration contravenes his right to life and liberty.

5. Sri. Grashious Kuriakose, the learned Additional Director General of Prosecution, vehemently opposed the application and submitted that the petitioner, if released on bail, would be a threat to society. Referring to the circumstances in which the murder was committed, it was pointed out that the young lady doctor was stabbed to death unprovoked and using scissors



B.A. No.10447/23

-:5:-

taken from the treatment room. According to the Prosecutor, the crime committed by the petitioner is very serious and heinous, and the materials collected by the prosecution through a special investigation team are formidable with ten eyewitnesses, of which six are injured, including three policemen and there is every chance that incidents of this nature may recur, if the petitioner is released on bail. It was also pointed out that the murder had shocked the entire State, and if the petitioner is released on bail, it will be against the collective conscience of the society as well.

6. Smt. Sruthy N.Bhat, learned counsel appearing for the father of the deceased, pointed out that the petitioner had no reason to attack his daughter - the victim and the serious injuries inflicted on her, resulted in his only child's death. It was further contended that the petitioner, who is a teacher, cannot indulge in such attacks and during the unprovoked attack, the victim had fallen down and the accused continued to stab her.

7. The murder of Dr.Vandana Das on 10.05.2023 sent shockwaves in the State. The safety of doctors while treating the patients became a matter of concern for all. The murder led to the intervention by this Court and a fresh protocol has even been



B.A. No.10447/23

-:6:-

drafted for ensuring the safety of the doctors and judicial officers while the accused are brought into their respective places. In the instant case, the petitioner is alleged to have been an injured person who was brought to the hospital to treat his injury. The victim was a person attending to his wounds, and the petitioner is alleged to have stabbed her 16 times with a pair of scissors on the head and the chest. The victim died due to the stab injuries.

8. Undoubtedly, the incident reflects a heinous crime. A Special Investigation Team investigated into the matter and filed a final report on the 89th day after questioning 106 witnesses. The Prosecutor's assertion that the petitioner, if released, will be a threat to society cannot be completely ignored. The seriousness of the crime and the alleged circumstance that the accused sat beside her and continued to stab, despite the hapless victim falling to the ground, indicates the heinous nature of the crime.

9. The argument advanced by the learned counsel for the petitioner that even if the prosecution allegations are admitted, an offence under section 308 IPC alone will be attracted is according to me prima facie fallacious and legally untenable. When an attempted act of culpable homicide leads to the death



B.A. No.10447/23

-:7:-

of a person, it amounts to murder or culpable homicide not amounting to murder. When the act resulted in death, it cannot be treated only as an attempt to commit culpable homicide under section 308. Further, as per Explanation 2 to Section 299 of IPC, even if proper medical care could have prevented the death, the person who inflicted the injury cannot be absolved of his act of causing death.

10. The post-mortem report indicates the nature of injuries inflicted on the victim. Out of 26 antemortem injuries, 16 were incised wounds. Death is stated to have been caused due to the injury numbers 13, 14, 15 and 17, all of which were on the back of the chest. Injury No.13 penetrated the left chest cavity by cutting the first intercostal space and pierced the upper part of the left lung. Injury Nos.14 and 15 also pierced the left lung, while injury No.17 pierced the right lung.

11. The accused is known to have had a history of alcohol use disorder and is separated from his wife and children as he had attempted to kill her in a fit of rage. He is stated to have an antisocial personality disorder, too.

12. The learned Additional Director General of Prosecution had submitted that steps are being taken to appoint a Special



B.A. No.10447/23

--:8:--

Public Prosecutor and also to have a speedy trial. Therefore undue delay in completing the trial also may not occur. Taking note of all the above circumstances, this is not a fit case where the petitioner could be released on bail.

Hence this application for bail is dismissed.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

vps



B.A. No.10447/23

-:9:-

APPENDIX

PETITIONER'S/S' ANNEXURES

Annexure 1	RELEVANT PAGES OF CHARGE SHEET DATED NIL
Annexure 2	TRUE COPY OF ORDER IN CRL.M.P NO. 1810/2023 DATED 18/10/2023