

Kerala High Court

Sreekumar vs State Of Kerala on 14 January, 2011

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Bail Appl..No. 8677 of 2010()

1. SREEKUMAR, AGED 42, S/O.KESAVA PILLAI,
... Petitioner

Vs

1. STATE OF KERALA, REPRESENTED BY
... Respondent

2. SUB INSPECTOR OF POLICE,

For Petitioner :SRI.R.GOPAN

For Respondent :PUBLIC PROSECUTOR

The Hon'ble MR. Justice V.RAMKUMAR

Dated :14/01/2011

O R D E R

V. RAMKUMAR, J.

.....
B.A. No. 8677 of 2010

.....
Dated this the 14th day of January, 2011.

ORDER

Petitioner who is the 5th accused in Crime No.364 of 2010 of Poovar Police Station for offences punishable under Sections 143, 147, 148, 149, 341, 322, 323, 324 and 308 I.P.C., seeks anticipatory bail.

2. The learned Public Prosecutor opposed the application.

3. After evaluating the factors and parameters which are to be taken into consideration in the light of paragraph 122 of the verdict dated 2-12-2010 of the Apex Court in Siddharam Satlingappa Mhetre v.

State of Maharashtra and Others (2010 (4) KLT 930), I am of the view that anticipatory bail cannot be granted in a case of this nature, since the investigating officer has not had the advantage of interrogating the petitioner. But at the same time, I am inclined to permit the petitioner to surrender before the Investigating Officer for the purpose of interrogation and then to have his application for bail considered by the Magistrate or the Court having jurisdiction. Accordingly, the petitioner shall surrender before the investigating officer on 24.01.2011 or on 25.01.2011 for the purpose of interrogation and recovery of incriminating material, if any. In case the investigating officer is of the view that having regard to the facts of the case arrest of the petitioner is imperative he shall record his reasons for the arrest in the case-diary as insisted in paragraph 129 of Siddharam Satlingappa Mhetre's case (supra). The petitioner shall thereafter be produced before the Magistrate or the Court concerned and permitted to file an application for regular bail. In case the interrogation of the petitioner is without arresting him, the petitioner shall thereafter appear before the Magistrate or the Court concerned and apply for regular bail on the same day or the next day. The Magistrate or the Court on being satisfied that the petitioner has been interrogated by the police shall, after hearing the prosecution as well, consider and dispose of his application for regular bail preferably on the same date on which it is filed.

4. In case the accused while surrendering before the Investigating Officer has deprived the investigating officer sufficient time for interrogation, the officer shall complete the interrogation even if it is beyond the time limit fixed as above and submit a report to that effect to the Magistrate or the Court concerned. Likewise, the Magistrate or the Court also will not be bound by the time limit fixed as above if sufficient time was not available after the production or appearance of the accused .

This petition is disposed of as above.

Dated this the 14th day of January, 2011.

V.RAMKUMAR, JUDGE RV