

Kerala High Court

Shaji vs State Of Kerala on 9 December, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Bail Appl..No. 7962 of 2010()

1. SHAJI,S/O.VARGHESE, SHAJI NIVAS,  
... Petitioner

Vs

1. STATE OF KERALA, REP.BY THE  
... Respondent

For Petitioner :SRI.R.V.SREEJITH

For Respondent : No Appearance

The Hon'ble MR. Justice V.RAMKUMAR

Dated :09/12/2010

O R D E R

V.RAMKUMAR, J.

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Bail Application No. 7962 of 2010  
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Dated this the 9th day of December, 2010

ORDER

Petitioner, who is the sole accused in Crime No.562/2010 of Vilappilsala Police Station for an offence punishable under Section 376 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 (Crl.Appeal No. 2271 of 2010), 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 20.12.2010 or on 21.12.2010 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. 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 petitioner 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 petitioner.

This petition is disposed of as above.

V.RAMKUMAR, JUDGE In