

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ASHOK MENON

FRIDAY, THE 29TH DAY OF JANUARY 2021 / 9TH MAGHA, 1942

Bail Appl..No.1118 OF 2021

AGAINST THE ORDER/JUDGMENT IN CRMP 1310/2020 DATED 03-11-2020 OF
DISTRICT COURT & SESSIONS COURT, KOTTAYAM

CRIME NO.1013/2020 OF Kottayam West Police Station, Kottayam

PETITIONER/S:

SHEMNAS,
AGED 38 YEARS, SON OF BASHEER,
SALI MANZIL, KUMARANELLOOR P O,
KOTTAYAM DISTRICT, 686016

BY ADV. SRI.V.P.MOHAMMED NIYAZ

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN 682031
- 2 THE STATION HOUSE OFFICER,
KOTTAYAM WEST POLICE STATION,
KOTTAYAM WEST P O, KOTTAYAM DISTRICT, PIN 686003,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

R1 BY PUBLIC PROSECUTOR
SMT.V.SREEJA -PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
29.01.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 29th day of January 2021

Application for regular bail under Section 439 Cr.P.C.

The applicant is the 2nd accused in Crime No.1013/2020 of Kottayam West Police Station, for having allegedly committed offences punishable under Sections 294(b), 323, 365, 384 and 506 r/w Section 34 of the IPC. He had earlier approached this Court for bail by filing B.A.No.7592/2020 and this Court had vide order dated 02.12.2020 dismissed the application for bail. This is the second time he is approaching.

2. The prosecution case, in brief, is that the applicant along with three others had in furtherance of common intention on 03.09.2020 at about 5.p.m., near the vegetable stall at Kottayam market, kidnapped the de facto complainant in an auto rickshaw to an isolated place near Kodimatha

Bridge and wrongfully detained him for hours demanding Rs.50,000/- as ransom for his release. He was assaulted and thereafter intimidated at knife point and the de facto complainant paid Rs.30,000/- through his friend to the accused. On 04.09.2020, de facto complainant was contacted over phone demanding the balance of Rs.20,000/- and he was again threatened and thereafter he approached the police to raise the complaint. The applicant was arrested on 04.09.2020 and has been in custody since then. His earlier bail application indicated that the applicant is a notorious criminal having 11 crimes registered against him, out of which he has been acquitted in four crimes and the rest are still pending. The applicant is involved in offences ranging from Sections 332, 352 and 308 of the IPC. Considering his antecedents and the fact that there is a possibility that he may intimidate the witness,

the application was dismissed with a direction to the trial court to expedite the trial and take it to a logical conclusion. The applicant has again approached this Court stating that the witnesses were not present and that there is every possibility that the trial may be prolonged and therefore he seeks bail. The fact that the applicant has been in judicial custody undergoing trial is no reason to state that his liberty has been pertained and that there is violation of Article 21 of the Constitution of India. The Hon'ble Supreme Court has while considering detention of the person, who were 8 years under trial in ***Achint Navinbhai Patel @ Mahesh Shah v. State of Gujarat and Ano [AIR 2003 SC 2172]***, held that the detention of a person during trial is not a violation of the liberty of a person, and therefore, the application for bail was dismissed.

In the present case also it was noticed by

this Court that the applicant is a notorious criminal having several criminal antecedents and that there is a fair possibility of his intimidating the witnesses, in case he is released on bail and it is for that purpose his earlier bail application was dismissed. There are no changes of circumstances and therefore the application is dismissed once again reminding the trial court to expedite the trial.

sd/-

ASHOK MENON

JUDGE

spk