

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SHIRCY V.

THURSDAY, THE 30TH DAY OF SEPTEMBER 2021 / 8TH ASWINA, 1943

BAIL APPL. NO. 6727 OF 2021

AGAINST THE ORDER/JUDGMENT IN CRMC 1014/2021 OF DISTRICT COURT &
SESSIONS COURT, THALASSERY, KANNUR

PETITIONER:

RUBIN OMER
AGED 20 YEARS
S/O. UMMER K.C, RESIDING AT OMERS, UKKAS MOTTA, KADIRUR
P.O, THALASSERY

BY ADVS.
S.SREEKUMAR (SR.)
P.MARTIN JOSE
THOMAS P.KURUVILLA
R.GITHESH
SACHIN JACOB AMBAT
ANNA LINDA V.J
P.PRIJITH
AJAY BEN JOSE
MANJUNATH MENON
HARIKRISHNAN S.
T.P.SAJID

RESPONDENTS

- 1 THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM 682 031
- 2 THE STATION HOUSE OFFICER
THALASSERY POLICE STATION, KANNUR DISTRICT, PIN 670 101
- 3 FASILA T
W/O ASIF E.P, AMINAS, CHAMPAD P.O, THALASSERY, PIN 670
694
SRI.MANU.P.G- SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.09.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Apprehending arrest in connection with Crime No.364 of 2021 of Thalassery Police Station registered for the offences punishable under Sections 304 and 201 of the Indian Penal Code, the petitioner has moved this application for pre-arrest bail.

2. The prosecution allegation is that on 20.7.2021 at about 10.00 p.m, the accused was driving a Pajero car bearing Reg.No.KL-18-E/3 through the public road at Thalassery near new bus stand and he had overtaken the vehicle with the knowledge that if he hit on a person, death will be caused. Still he drove the car in a rash and negligent manner that too in excessive speed and hit on a scooter which was on the road side bearing Reg.No.KL-58-U/9615 and due to the impact of the hit, the rider of the scooter fell into the drainage on the side of the road and sustained very serious injuries. Though he was shifted to the hospital immediately, he succumbed to the injuries on the next day while undergoing treatment in MIMS hospital, Kannur and thereby the petitioner has committed the aforesaid offences.

3. The learned Senior Counsel for the petitioner submits that it is

true that the deceased died as he was hit by the car driven by this petitioner. But it was purely a road traffic accident. The accused was driving his car carefully, but the accident occurred as the rider of the scooter came from a side road all on a sudden and he fell down and sustained injuries as the car hit him accidentally. The petitioner is aged only 20 years pursuing his studies. It is further submitted that the custodial interrogation of this petitioner is quite unnecessary as it is only a road traffic accident which happened accidentally.

4. The incident happened in the night at 10.00 p.m in the public road. The petitioner was having the knowledge that it is likely to cause death as he was driving the vehicle in exorbitant speed. So many youngsters were with him and they have taken the vehicle without caring the pedestrians and the other passengers on the road and thus the incident has happened.

5. It is true that the petitioner is a youngster aged only 20 years. The deceased who sustained injuries was immediately taken to the hospital for treatment by his friends who were in the car at the time of the accident. Though he was given treatment he succumbed to the injuries as he sustained very grievous injuries in the accident. Whether an offence under Section 304 of the IPC is attracted or not is a matter to

be considered only at the time of the trial of the case. But the records indicate that the investigation of the case is well in progress and the statement of most of the witnesses were recorded and the car driver by the petitioner was also seized by the police.

6. Considering the nature of the accusation levelled against the petitioner as well the other facts and circumstances involved in this case, I could not find any materials to conclude that custodial interrogation of this petitioner is inevitable. But still the investigating agency has to collect the details by interrogating the petitioner. So this petition can be disposed of directing him to surrender before the investigating officer on **7.10.2021** at 10.30 a.m . Upon his surrender, after interrogation he shall be released on bail on the very same day if his arrest is recorded subject to the following conditions:

Therefore, this application is allowed subject to the following conditions:

(i) The petitioner shall be released on bail on executing bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties for the like sum each in the event of arrest by the police in connection with the above crime.

(ii) The petitioner shall appear before the Investigating Officer for interrogation as and when required by him in writing. He shall co-operate with the investigation of the case.

(iii) The petitioner shall surrender his driving licence before the investigating officer on the date of his arrest. The petitioner is entitled to get back his driving licence produced before the investigating officer only on filing a proper application before the Judicial First Class Magistrate after a month of the investigation.

(iv) The petitioner shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence.

(v) The petitioner shall not commit any offence while on bail.

In case of violation of any of the above conditions, the jurisdictional court is empowered to cancel the bail in accordance with the law.

sd/-

SHIRCY V.

smm

JUDGE