

In the Court of Session, Palakkad Division
Present: Sri. Ananthakrishna Navada. K., Sessions Judge

Tuesday, the 13th day of February, 2024/24th day of Magha, 1945 S.E.

Criminal Miscellaneous Case No.613/2024
in Crime No.1146/2023 of Kozhinjampara Police Station

Petitioner/Accused :

Deepthi Das, aged 29 years, W/o.Balakrishnan, Vaigha Nivas, Thulasi Garden, Vannamada, Kozhinjampara, Palakkad.

Vs:

Respondent/Complainant :

The State of Kerala rep. by the Circle Inspector of Police,
Kozhinjampara Police Station.

This petition is filed u/s.439 of Cr.P.C. by the petitioner/accused in Crime No.1146/2023 of Kozhinjampara Police Station, praying that in the circumstances stated therein, this court may be pleased to release her on bail.

This application coming on for hearing today in the presence of Sri.S.Vinod, Advocate for the petitioner and the Public Prosecutor on behalf of the state and this court passed the following:-

ORDER

This petition is filed under Section 439 of the Code of Criminal Procedure by the accused in Kozhinjampara Police Station Crime No.1146/2023 registered for the offence punishable under Section 302 of the Indian Penal Code.

2. The prosecution case is that between 9.15 pm and 10 pm on 11.12.2023 at her residence at Thulasi Garden, Vannamada, the accused has committed murder of a four year old child of the

brother of her husband. Thereby she committed the above mentioned offence.

3. The petitioner filed bail application No.1146/2023 before the Magistrate's court was dismissed on 22.12.2023. Then she filed Criminal MC 6459/2023 before this court. It was dismissed on 17.01.2024. While dismissing that application, this Court observed that report filed by the Mental Health Center, Thrissur (MHC) is incomplete and they want few more days for observation and completion of evaluation and it is premature to release the accused on bail. However, the petitioner was under treatment in the MHC, Thrissur. Now the treatment is over and on 22.01.2024 she was discharged from the MHC Thrissur as her condition became stable. Now she is in need of the care of her near and the dear. Moreover, the investigation is considerably progressed and all the witnesses were examined. Therefore, the petition is filed contending that if she is continued in the prison, her mental abnormality may deteriorate. She has no criminal antecedents and she is ready to co-operate with the trial. She is a member of a reputed family and she may be released on bail.

4. No new objection is filed to this petition. The learned Public Prosecutor submitted that the objection filed earlier still subsists and it may be taken as objection to this petition as well. In the objection it is contended that the investigation is not completed. Even though application was filed to get police custody of the

accused, since she was in the Hospital, custody could not be obtained within the first remand period. The investigation is being conducted and evidence are to be collected scientifically as well as digitally in order to find out the involvement of the accused in the crime. The crime is very heinous one. If the bail is granted at this stage, it may give a very bad message to the Society. Moreover, situation in the place of incident is tense. There is every chance that there will be violence. Therefore, the petition should not be allowed.

5. I heard the learned counsel for the petitioner and the learned Public Prosecutor.

6. The report from the Mental Health Centre, Thrissur is also obtained. In the report it is stated that she had been under the observation from 10.01.2024 to 22.01.2024. Serial mental status examination and psychological evaluations were done and diagnosed as recurrent depressive disorder -Current Episode Moderate depression without somatic symptoms and hypothyroidism. Treatment started and patient improved with treatment. Hence, discharged on 22.01.2024. On the date of discharge, mental status was stable with normal talk, psychomotive activity normal with reactive mood judgment normal and insight present. She was discharged with instructions to continue medications and follow up as outpatient.

7. The learned counsel for the petitioner submitted that her husband and brother are present and they are ready to take care of the petitioner. On the other hand if she is detained in prison further, her condition may deteriorate. Therefore, the bail may be granted.

8. The learned Public Prosecutor submitted that the investigation is still continuing. The offence is serious one. But taking into account the entire aspects, the court may pass appropriate order in the matter.

9. The point for consideration is whether the petitioner should be released on bail ? If so, what is the order?

10. **The point:** - No doubt the offence alleged against the petitioner is very serious one. It is an offence punishable with death or imprisonment for life. An infant child was allegedly murdered by the petitioner by strangulation. The child is none other than the child of her husband's brother. The incident happened in a very dramatic way. She is residing with her husband and a girl child in her husband's residence. Her husband's parents are residing with the second son, his wife and a boy child in a different house. On 11.12.2023, the mother in-law of the petitioner was in need of urgent medical care. She was taken to a nearby hospital by the husband of the petitioner in his car. The petitioner, her child, her father in law, wife of the husband's

brother, minor child of husband's brother all went to the hospital. While waiting for the doctor to come, it was decided that all of them need not be in the hospital. Hence, the husband of the petitioner brought the petitioner, and two children mentioned above to his residence. The husband of the petitioner then returned to the hospital. After the treatment and consultation with the Doctor others returned. They went to the residence of the husband of the petitioner to take back the child of the brother of the petitioner's husband. The house was found bolted from inside. On calling the petitioner repeatedly, the child of the petitioner opened the rear side door. On entering the house, in the kitchen blood drops were found. they reached, the child of petitioner's husband's brother was found in an unconscious state. The petitioner was found with bleeding injuries on her both hands. The child and the petitioner were taken to the hospital. The child was declared to be brought dead. The petitioner was diagnosed as having serious mental problem. Crime was registered. The postmortem report of the child was obtained. The death of the child was found to be by smothering. The petitioner was arrested. She was sent to Mental Health Centre for treatment on finding that she needs immediate psychiatric treatment. Even-though, permission was given to the police for interrogation, the Police would say she was not in a position to give any details of the crime.

11. All these above aspects would prima facie indicate that

the petitioner had some serious mental problem and that lead to the entire episode in the case. The earlier bail application was dismissed for the reason that without getting complete report from the Mental Health Centre, if she is released on bail, she may cause injury to herself or to others. But at present, the report of the Doctor is available and he says she improved much. But periodical check up and medication is necessary.

12. The learned counsel for the petitioner submitted that her husband and brother are ready to take care of her. If she is continued in the Mental Health Centre, definitely there may not be any proper care and her condition may become worse. In such an event, it may be detrimental to herself or to fellow inmates of the jail.

13. I find force in the above argument. From the facts so far revealed, it appears, she is in need of care, medication and support. But in the prison, if such a person is detained, facilities are very limited to them. At the same time, the chance that she may suffer from mental illness while in prison cannot completely be ruled out. In the prison, no proper care can be given as expected from her own brother or husband. Moreover, the situation in the prison may be very much detrimental to her. There is no past antecedents of crimes to her. In such circumstance, I find, some arrangements has been made. Even under proviso to S. 437 (1) there is an exception to a woman about the bail even if she is

alleged to have committed an offence which is punishable with death or imprisonment for life. It is submitted by the learned counsel for the petitioner that the husband and brother of the petitioner are ready to give proper medical treatment. No doubt, the crime is very heinous one and investigation is continuing. But the fact is that for nearly two months, she is in judicial custody. Most of the time, she was in the Mental Health Centre. Therefore, taking into account the entire circumstances such that 1. she is a woman, 2. prima facie she is suffering from serious mental illness, 3. continued medical treatment is needed to her, 4. in the prison proper medical treatment cannot be given and 5. now her near relatives are ready to take care of her, I find, bail can be granted to her on conditions. Such an order is necessary for the safety of the petitioner as well. The point is answered accordingly.

In the result, the petition is allowed as follows:-

1. The petitioner is released on bail on executing a bond for ₹2,00,000/- (Rupees Two Lakh only) with two solvent sureties each for the like sum to the satisfaction of the committal court. One of the surety should be her near relative.
2. Her brother and husband (both) shall give an undertaking before the committal court that they will treat the petitioner for her mental illness as directed by the Doctors of the Mental Health Centre, Thrissur and continue the treatment in that Mental Health Centre.

3. The periodical reports once in a month about her health condition shall be filed before the committal court.
4. If any notice is received for interrogation, she shall co-operate with the Investigation officer.
5. She 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
6. She shall not commit similar offence while on bail and no opportunity should be given to her to meet any other witnesses in the case.

If any bail condition is violated, the Investigating officer is at liberty to approach the court for necessary orders including an order for cancellation of bail.

Dictated to the Confidential Assistant, transcribed and typed by her, revised and corrected by me and pronounced in open court, on this the 13th day of February, 2024.

Sd/-
Sessions Judge