

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 21ST DAY OF OCTOBER 2022 / 29TH ASWINA, 1944

CRL.REV.PET NO. 725 OF 2022

CRIME NO.586/2022 OF Kadavanthra Police Station, Ernakulam

JMFC - VIII, ERNAKULAM (TEMPORARY)

REVISION PETITIONERS/ACCUSED 1 TO 3:

- 1 MUHAMMED SHAFI
AGED 52 YEARS, OCC-BUSINESS
S/O. MANSOOR,
VEZHAPPILLY-HOUSE,
VENGOLA,
PERUMBAVOOR,
ERNAKULAM-DISTRICT., PIN - 683556

- 2 BHAGAVAL SINGH, OCC- OSTEOPATH
AGED 68 YEARS
S/O. VASAVAN,
KADAKAMPALLIL-HOUSE,
KARAMVELI.P.O,
ELANTHOOR,
PATHANAMTHITTA-DISTRICT., PIN - 689643

- 3 LAILA BHAGAVAL SINGH
AGED 59 YEARS, OCC-HOUSE WIFE,
S/O. BHAGAVAL SINGH,
KADAKAMPALLIL-HOUSE,
KARAMVELI.P.O,
ELANTHOOR,
PATHANAMTHITTA-DISTRICT, PIN - 689643

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BY ADVS.
BIJU ANTONY ALOOR
K.P.PRASANTH
T.S.KRISHNENDU
ARCHANA SURESH
JINSON JACOB
MOHAMED AMEER M.

RESPONDENTS/COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031

- 2 THE STATION HOUSE OFFICER
KADAVANTHRA POLICE STATION,
ERNAKULAM DISTRICT., PIN - 682020

SRI. T.A. SHAJI, DGP

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 21.10.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

ORDER

Dated this the 21st day of October, 2022

This criminal revision petition has been filed challenging the order passed by the Judicial First Class Magistrate Court-VIII, Ernakulam (for short 'the court below') giving police custody of the accused.

2. The revision petitioners are the accused in Crime No.586/2022 of Kadavanthra Police Station. The offences alleged are punishable under Sections 120(b), 364, 302, 201 read with 34 of IPC.

3. The prosecution case in short is that the accused three in numbers have murdered and mutilated two women as part of a ritualistic human sacrifice aiming at financial prosperity and thus committed the offences.

4. The accused were arrested on 12/10/2022 and they were remanded to judicial custody. On 13/10/2022, the investigating officer filed an application as CrI.M.P No.4723/2022

to grant police custody of the accused for a period of 12 days. The court below after hearing both sides, allowed the said application as per the impugned order.

5. I have heard Sri. B.A. Aloor, the learned counsel for the petitioners and Sri. T.A. Shaji, the learned Director General of Prosecution.

6. The learned counsel for the petitioners submitted that no sufficient reasons have been canvassed by the investigating officer to get the police custody of the accused, that too, for a lengthy period of 12 days and the court below committed illegality in granting police custody. The counsel further submitted that the impugned order does not state any reasons for granting police custody. He further submitted that the right of the petitioners to meet their lawyer during the period of police custody was not considered in the impugned order.

7. Per contra, the learned DGP submitted that there is absolutely no illegality or impropriety in the impugned order which was passed by the court below after taking into account the detailed application filed by the investigating officer

highlighting the grounds for getting the police custody. The learned DGP further submitted that this is a peculiar case which stunned the conscience of the society and the investigation has to be carried out in different dimensions and for the said purpose, police custody for 12 days is absolutely necessary. The learned DGP also submitted that the accused cannot dictate in what manner the investigation has to be carried out by the investigating agency.

8. The gruesome murder of two women allegedly as part of human sacrifice for financial gain has shocked the people of Kerala. I went through the application moved by the investigating officer seeking police custody. 22 specific points have been highlighted in the said application. The learned counsel for the petitioner relying on the decision of the Apex Court in ***Arnesh Kumar v. State of Bihar & Another*** (2014 (3) KLJ 330) has submitted that the power to authorise detention is a very solemn function, it affects the liberty and freedom of citizens and needs to be exercised with great care and caution. The grounds raised by the investigating officer for custody would

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show that the above mentioned 22 specific areas have to thoroughly investigated considering the peculiar nature of the case. Those were taken into account by the court below while passing the order. Thus, it is clear that the court below passed the impugned order with great care and caution. As rightly argued by the learned DGP, the accused cannot dictate in what manner the investigation has to be carried out. I see no illegality or impropriety in the impugned order. Therefore this revision petition is liable to be dismissed.

9. The learned counsel for the petitioner Sri. B.A. Aloor lastly submitted that even during police custody, the petitioners have the right to meet their lawyer. He has relied on Section 41D of Cr.P.C which deals with the right of an arrested person to meet an advocate of his choice during interrogation. It says that if any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation. The petitioners are already in police custody from 13.10.2022. Their custody will be over on 24.10.2022. I am of the view that

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permission can be granted to the accused to meet their lawyer on alternate days from today onwards. Hence, the investigating officer shall permit the petitioners to meet their lawyer today and also day after tomorrow for 15 minutes from 5 pm to 5.15 pm in the presence of the investigating officer. It is made clear that the presence of the lawyer is not permitted during interrogation in police custody.

With the above observation, this criminal revision petition is dismissed.

Sd/-

DR. KAUSER EDAPPAGATH
JUDGE

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APPENDIX OF CRL.REV.PET 725/2022

PETITIONER ANNEXURES

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| Annexure1 | TRUE COPY OF THE ORDER IN CRL.M.P NO.
4723/2022 DATED 13/10/2022 PASSED BY
LD. JFCM COURT-VIII AT ERNAKULAM. |
| Annexure2 | TRUE COPY OF THE REMAND REPORT DATED
12/10/2022. |
| Annexure3 | TRUE COPY OF THE CUSTODY REPORT DATED
13/10/2022 |
| Annexure4 | TRUE COPY OF THE SCREEN SHOT OF THE
MEDIA REPORTS. |