

## Xxx Vs State Of Kerala

**Court:** High Court Of Kerala

**Date of Decision:** April 27, 2021

**Acts Referred:** Code Of Criminal Procedure, 1973 " Section 439

Indian Penal Code, 1860 " Section 354

Protection Of Children From Sexual Offences Act, 2012 " Section 7, 8, 9(l), 9(m), 9(n), 9(2)(l), 19(l)

**Hon'ble Judges:** Kauser Edappagath, J

**Bench:** Single Bench

**Advocate:** D. Vimal Dev, M.R. Dhanil

**Final Decision:** Allowed

### Judgement

1. This is an application filed u/s 439 of Code of Criminal Procedure seeking regular bail.

2. The petitioner is the sole accused in Crime No.59/2021 of Mathilakam Police Station. The offences alleged are under Section 354 of IPC and

Section 8 read with 7 and 10 read with 9(m), (n), (l), 2(l) read with 19(l) of the POCSO Act, 2012.

3. The prosecution case in short is that on a day after Christmas during the year 2020, the petitioner with sexual intent made the victim to sit on his lap

and touched on her private parts and thereby committed the offence.

4. Heard both sides and perused the case diary.

5. The learned counsel for the petitioner submitted that the petitioner is absolutely innocent and he has been falsely implicated in the present case. He

further submitted that there are no materials to connect the petitioner with the alleged crime and hence he is entitled to get bail. The learned Public

Prosecutor opposed the bail application. He contended that the alleged incident occurred as a part of the intentional criminal acts of the petitioner and

if the petitioner is released on bail at this stage, it would affect the course of investigation.

6. Perusal of the case diary would reveal that prima facie there are materials on record to connect the petitioner with the crime. However, the

petitioner was remanded to judicial custody on 26.02.2021. In view of the nature of the crime and the stage of investigation, I do not find any reason to

hold that the continued detention of the petitioner is required for any purpose. The investigation seems to have reached a fair stage. The petitioner is

70 years old. Considering the prevalent pandemic situation in the State also, I am of the view that bail can be granted to the petitioner. For all these

reasons, the petitioner is entitled to be released on bail on conditions.

In the result, the application is allowed on the following conditions:-

(i) The petitioner shall be released on bail on executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum

each to the satisfaction of the jurisdictional Magistrate/Court.

(ii) The petitioner shall fully co-operate with the investigation.

(iii) The petitioner shall appear before the investigating officer between 10.00 a.m and 11.00 a.m on every Saturday until further orders. The petitioner

shall also appear before the investigating officer as and when required by him.

(iv) The petitioner shall not commit any offence of like nature while on bail.

(v) The petitioner shall not make any attempt to contact any of the prosecution witnesses, directly or through any other person, or any other way try to

tamper with the evidence or influence any witnesses or other persons related to the investigation.

(vi) The petitioner shall not leave State of Kerala without the permission of the trial Court.