

**(2021) 04 KL CK 0263**

**High Court Of Kerala**

**Case No:** Criminal Appeal No. 185 Of 2021

Muralidharan

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

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**Date of Decision:** April 30, 2021

**Acts Referred:**

- Indian Penal Code, 1860 - Section 354A(1)(ii), 354A(1)(iv), 354(D), 509
- Protection Of Children From Sexual Offences Act, 2012 - Section 11(i), 12
- Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Amendment Act, 2015 - Section 3(2)(va)
- Juvenile Justice (Care And Protection Of Children) Act, 2015 - Section 75

**Hon'ble Judges:** Bechu Kurian Thomas, J

**Bench:** Single Bench

**Advocate:** Nireesh Mathew, Balamurali K.P, Ranjitha

**Final Decision:** Dismissed

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**Judgement**

1. This appeal is preferred by the accused in Crime No.63/2021 of Alathur Police Station, Palakkad District against the order of the Sessions Judge

rejecting his application for anticipatory bail.

2. The appellant is arrayed as an accused in the above mentioned crime for the offences under Sections 354A(1) (ii) and (iv), 354D and 509 of IPC,

Section 12 read with Section 11(i) and (iv) of the Protection of Children from Sexual Offences Act, 2012, Section 3(2)(va) of the Scheduled Castes

and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, 'the SC/ST Act') and Section 75 of the Juvenile Justice (Care &

Protection of Children) Act.

3. The allegation of the prosecution, in brief is that the victim, who is a member of the Scheduled Caste community, aged 15 years while studying in

the tuition centre run by the accused, asked by the accused sexually coloured questions over mobile phone and on another occasion called her alone

into the office room and again tried to converse with sexual overtones, thereby committing the offences alleged against him.

4. The learned Sessions Judge in the impugned judgment after perusing the case diary found that there are sufficient materials to register the offence

under the SC/ST Act, apart from the other provisions alleged against him and dismissed the application.

5. In this appeal, an affidavit of the mother of the victim has been placed for consideration stating that after the registration of the crime, in the

conciliation talks between the parties and the accused, it has been agreed not to pursue the case. The accused relies upon the said affidavit and seeks

the grant of anticipatory bail in the instant case.

6. I have perused the affidavit filed by the mother of the victim. The affidavit of the mother of the victim cannot have any legal validity especially in

the nature of the allegations leveled against the accused. In such an instance, the affidavit now produced for consideration cannot be legally relied

upon, for granting anticipatory bail to the petitioner.

7. From the nature of the allegations and the circumstances arising in the case, it cannot be said that prima facie a case has not been made out against

the accused for the offence under the provisions of the SC/ ST Act. In such circumstances, the petitioner is not entitled to anticipatory bail.

However, considering the nature of the allegations, I direct the petitioner to surrender before the investigating officer on any day within the next two

weeks. On such surrender, the investigating officer shall carry out the necessary interrogation and after such interrogation, the petitioner shall be

produced before the jurisdictional Magistrate, in accordance with law. If the accused makes any application for grant of bail, the learned Magistrate

shall consider the same, in accordance with law and pass appropriate orders.

The appeal is thus dismissed.