

Shivajith Vs State Of Kerala

Court: High Court Of Kerala

Date of Decision: June 22, 2022

Acts Referred: Code of Criminal Procedure, 1973 " Section 439

Indian Penal Code, 1860 " Section 354, 354D

Protection of Children from Sexual Offences (POCSO) Act, 2012 " Section 7, 8, 11(iv), 12

Hon'ble Judges: Bechu Kurian Thomas, J

Bench: Single Bench

Advocate: P.Anoop, Nima Jacob

Final Decision: Allowed

Judgement

Bechu Kurian Thomas, J

1. This is an application for regular bail under Section 439 of the Code of Criminal Procedure, 1973.

2. Petitioner is the accused in Crime No.314 of 2022 of Chathannoor Police Station registered for the offences punishable under Sections 354 and

354D of the Indian Penal Code 1860 and also under Section 8 r/w Sec.7 and Sec.12 r/w 11(iv) of the Protection of Children from Sexual Offences

(POCSO) Act, 2012.

3. The prosecution case is that with an intention to outrage the modesty of the minor victim aged 16 years, petitioner contacted her through mobile

phone and continuously tortured her through such calls. Thereafter, the victim attempted to commit suicide and thus, the petitioner committed the

offences alleged against him.

4. Sri.P.Anoop, the learned counsel for the petitioner, contended that already more than a month has elapsed since the petitioner was arrested and that

he has no connection with the crime. According to, the, learned, counsel, petitioner, is, totally, innocent, and, the crime is registered

falsely.

5. Smt.Nima Jacob, the learned Public Prosecutor, vehemently opposed the grant of regular bail and submitted that the offences committed by the

petitioner are grave in nature.

6. A perusal of the case diary reveals that prima facie there are materials on record to connect the petitioner with the crime. However, I am of the

view that the continued detention of the petitioner is not required in the circumstances of the case. Therefore, the petitioner is entitled to be released

on bail.

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

(i) Petitioner shall be released on bail on his executing a bond for Rs.50,000/- [Rupees fifty thousand only) with two solvent sureties each for the like sum to the

satisfaction of the court having jurisdiction.

(ii) Petitioner shall appear before the Investigating Officer as and when required.

(iii) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he tamper with the evidence or contact the victim or their family members;

(iv) He shall not commit any offence while he is on bail.

(v) The applicant shall not leave India without the permission of the Court having jurisdiction.

In case of violation of any of the above conditions, the jurisdictional court shall be empowered to consider the application for cancellation, if any, and

pass appropriate orders in accordance with the law, notwithstanding the bail having been granted by this Court.