
(2022) 06 KL CK 0364

High Court Of Kerala

Case No: Bail Application No. 4842 Of 2022

E.K.Pushpangathan

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: June 30, 2022

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 354, 354A(1)(i)
- Protection of Children from Sexual Offences Act, 2012 - Section 9(l), 9(m), 10

Hon'ble Judges: Bechu Kurian Thomas, J

Bench: Single Bench

Advocate: A.Arunkumar, Noushad K. A

Final Decision: Allowed

Judgement

Bechu Kurian Thomas, J

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

2. Petitioner is the accused in Crime No.250/2022 of Chittarikkal Police Station, Kasargod. The offences alleged against the petitioner are under

Sections 354, 354A(1)(i) of the Indian Penal Code, 1860 and Section 10 r/w Section 9(m)(l) of the Protection of Children from Sexual Offences Act,

2012.

3. The prosecution case is that on 21.03.2022 at about 16.00 hours, the accused committed sexual assault on the 11 year old survivor by pressing her

breast. The prosecution also alleges that the said act was repeated again on 06.04.2022 and thereby committed the offences alleged.

4. Sri.A.Arunkumar, learned counsel for the petitioner submitted that the entire prosecution case is totally false and that the petitioner and his son

were attacked by the father of the survivor on 14.04.2022 and that both the petitioner and his son had suffered injuries and the petitioner was admitted

to the Medical College Hospital, Kannur from where he was discharged on 20.04.2022. According to the learned Counsel, the father of the survivor,

who is the accused in the other crime is still absconding and has not yet been arrested and that the present crime ie. Crime No.250/2022 is registered

as a counter blast to Crime No.251/2022.

5. Sri.K.A.Noushad, learned Public Prosecutor opposed the grant of bail and submitted that the allegations are serious in nature and that if the

petitioner is released on bail, it would prejudice to the investigation.

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

petitioner was remanded to judicial custody on 07.06.2022, 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.

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 not enter into the jurisdictional limits of Chittarikkal Police Station, Kasargod till the final report is filed.

(iii) Petitioner shall appear before the Investigating Officer as and when required;

(iv) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he tamper with the evidence or contact the defacto complainant.

(v) Petitioner shall not commit any offence while he is on bail.

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.