

## XXXXXXXXXX Vs State Of Kerala

**Court:** High Court Of Kerala

**Date of Decision:** July 26, 2022

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

Indian Penal Code, 1860 " Section 323, 506(i)

Protection of Children from Sexual Offences Act, 2012 " Section 7, 8, 9(f), 9(l), 9(m), 10

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

**Bench:** Single Bench

**Advocate:** A.C.Devy, A.M.Abdulla, Nima Jacob

**Final Decision:** Allowed

### Judgement

Bechu Kurian Thomas, J

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

2. Petitioner is the sole accused in Crime No.583/2022 of the Pudukkad Police Station, Thrissur, alleging offences under Section 323 r/w Section

506(i) of the Indian Penal Code, 1860 and Section 8 r/w Section 7, Section 10 r/w Sections 9(f), 9(l) and 9(m) of the Protection of Children from

Sexual Offences Act, 2012.

3. The prosecution case is that from June, 2014 to June, 2022 the petitioner, who is a tuition teacher of the victim committed sexual assault on him at

various places, including the bedroom of the petitioner's house and in the room of a church and thereby, committed the offences alleged.

4. Smt.Devy, the learned counsel for the petitioner contended that the entire prosecution case is false and that no offences as alleged had taken place.

The learned counsel further pointed out that the alleged victim had attacked the petitioner and he sustained serious injuries, which had to be sutured by

96 stitches and that the complaint is the result of the said incident. It was also submitted that the petitioner was arrested on 21.06.2022.

5. Smt. Nima Jacob, the learned Public Prosecutor opposed the grant of bail and submitted that the petitioner has committed a serious crime and

releasing the petitioner on bail at this juncture would cause serious prejudice to the prosecution case as well as the witnesses.

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

petitioner was remanded to judicial custody on 21.06.2022, 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.

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

(a) Petitioner shall be released on bail on him 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.

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

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

(d) Petitioner shall not commit any similar offences while he is on bail.

(e) Petitioner shall not leave India without the permission of the Court having jurisdiction.

8. 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.