

Nibin Khan Vs State Of Kerala

Court: High Court Of Kerala

Date of Decision: Aug. 22, 2022

Acts Referred: Code of Criminal Procedure, 1973 â€” Section 439
Indian Penal Code, 1860 â€” Section 34, 109, 312, 376, 376(2)(n)

Hon'ble Judges: Bechu Kurian Thomas, J

Bench: Single Bench

Advocate: Sruthy N. Bhat, P.M.Rafiq, M.Revikrishnan, Ajeesh K.Sasi, Sruthy K.K, Rahul Sunil, Nikita J. Mendez, K.A.Noushad, P.Vijayabhanu

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 accused in Crime No.258/2022 of Kottayam West Police Station, Kottayam District, The offences alleged against the petitioner are

under Sections 376, 376(2)(n), 109 and section 312 read with section 34 of the of the Indian Penal Code, 1860

3. According to the prosecution, petitioner, who is alleged to be love with the victim from 2019 onwards committed sexual assault on her with the

promise of marriage on several days at different places and even took her to Kulu and Delhi and committed sexual assault at those places also and

subsequently, when she became pregnant he along with the immediate relatives forced her to terminate the pregnancy and thereby committed the

offences alleged.

4. Sri.P.Vijayabhanu, the learned Counsel for the petitioner submitted that the entire prosecution case is false and the incident as alleged had never

occurred. It was further pointed out that consequent to the dismissal of the application for pre-arrest bail, petitioner surrendered on 20.07.2022 and he

has been in custody since then and hence continued detention may not be required.

4. Sri.K.A.Noushad, learned Public Prosecutor on the other hand opposed the grant of bail and submitted that releasing the petitioner at this stage

would cause prejudice to the investigation.

6. Having regard to the circumstances of the case including the statement given by the victim and the age of the petitioner, I am of the view that the

continued detention of the petitioner is not required. Accordingly, I allow this application with 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 her 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.

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.