
Musthafa Vs State Of Kerala

Bail Application No. 6426 Of 2022

Court: High Court Of Kerala

Date of Decision: Aug. 23, 2022

Acts Referred:

Code of Criminal Procedure, 1973 " Section 439#Indian Penal Code, 1860 " Section 354A(1)(i)#Protection of Children from Sexual Offences Act, 2012 " Section 7, 8

Hon'ble Judges: Bechu Kurian Thomas, J

Bench: Single Bench

Advocate: Nireesh Mathew, 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.388 of 2022 of Cherpulassery Police Station, Palakkad. The offences alleged against the petitioner are

punishable under Section 354A(1)(i) of the Indian Penal Code, 1860 and Section 8 read with Section 7 of the Protection of Children from Sexual

Offences Act, 2012.

3. According to the prosecution, on 28.07.2022 at about 3.00 p.m., the victim girl, aged 14 years was sexually assaulted by the petitioner and thereby

committed the offences alleged.

4. Sri. Nireesh Mathew, the learned counsel for the petitioner contented that the entire prosecution case is false and that the petitioner was arrested

on 29.07.2022, continued detention may not be permitted especially since the final report has been filed.

5. Sri. Noushad K.A, the learned Public Prosecutor opposed the grant of bail and contended that the petitioner is alleged to committed a very serious

offence.

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 29.07.2022, I am of the view that the continued detention of the petitioner is not required in the

circumstances of the case, more so since the investigation is over and the final report has already been filed. Therefore, the petitioner is entitled to be

released on bail.

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

(a) The 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) The petitioner shall co-operate with the trial of the case.

(c) The petitioner shall not intimidate or attempt to influence the witnesses; nor shall he attempt to tamper with the evidence.

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

(e) The petitioner shall not enter the jurisdictional limits of Cherpulassery Police Station, Palakkad until completion of the trial.

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.