
Mithun Das @ Sachu Vs State Of Kerala

Bail Application No. 9975 Of 2022

Court: High Court Of Kerala

Date of Decision: Dec. 16, 2022

Acts Referred:

Code of Criminal Procedure, 1973 " Section 439#Indian Penal Code, 1860 " Section 376, 450#Protection of Children from Sexual Offences Act, 2012 " Section 3(a), 4(1), 11(iv), 12

Hon'ble Judges: Bechu Kurian Thomas, J

Bench: Single Bench

Advocate: M.Kiranlal, Manu Ramachandran, R.Rajesh, Sameer M Nair, Geethu Krishnan, Sailakshmi Menon, M.K Pushpalatha

Final Decision: Allowed

Judgement

BECHU KURIAN THOMAS, J

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.1588/2022 of Adoor Police Station, Pathanamthitta, alleging offences punishable under Sections 450 and

376 of the Indian Penal Code, 1860 and Section 4(1) r/w Section 3(a) and Section 12, 11(iv) of the Protection of Children from Sexual Offences Act,

2012.

3. According to the prosecution, petitioner and the victim were in a relationship and the accused committed penetrative sexual assault on the victim on

01.11.2022 at the residence of her friend and thereby committed the offences alleged.

4. Sri.Kiran Lal, the learned counsel for the petitioner contended that the entire prosecution allegations are false and the incident as alleged had not

occurred. It was further submitted that the victim is aged 17 ½ years while the petitioner is only 20 years in age and therefore having regard to the

date of arrest which is 06.11.2022, further detention ought not to be permitted.

5. Smt.M.K.Pushpalatha, the learned Public Prosecutor opposed the grant of bail and contended that the allegations are serious and that even though

the petitioner is young in age, the victim is a minor and therefore releasing the petitioner, at this juncture would cause prejudice to the investigation

especially since the investigation is continuing.

6. I have considered the rival contentions. Petitioner is only 20 years in age while the victim is aged 17 ½ years old. The allegation is that both of

them were in a relationship and on 01.11.2022, they indulged in a sexual relationship. Having regard to the period of detention already undergone as

well as the young age of the petitioner, I am of the view that further detention would not serve any purpose.

7. Accordingly, I allow this application 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 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.