

Mohd.Shadab Vs State Of Kerala**Bail Application No. 6787 Of 2023**

Court: High Court Of Kerala**Date of Decision:** Sept. 7, 2023**Acts Referred:**

Indian Penal Code, 1860 " Section 34, 341, 354, 354 A(1)(i)

Citation: (2023) 09 KL CK 0047**Hon'ble Judges:** Gopinath P., J**Bench:** Single Bench**Advocate:** R.Rohith, Harishma P. Thampi, G Sudheer**Final Decision:** Dismissed

Judgement

Gopinath P., J

1. This is an application for regular bail

2. The petitioner is first accused in Crime No.148/2023 of Railway Police Station, Kottayam District alleging commission of offences under Sections

341, 354, 354 A(1)(i) and 34 of the Indian Penal Code. The petitioner was arrested on 14-07-2023. The allegation against the petitioner and the other

accused is that, with an intention to outrage the modesty of the defacto complainant and her friend, the petitioner and the other accused restrained the

defacto complainant and her friend, when they gone to the bathroom of the general compartment of Train No.12625 (Kerala Express) at about the

time when the train reached the Vaikom junction and used criminal force against them with sexual intend and thereby outraged the modesty of the

defacto compartment and her friend.

3. The learned counsel for the petitioner would submit that the petitioner is absolutely innocent in the matter. It is submitted that there was a dispute

between the petitioner and the other accused and the defacto complainant and her friend regarding occupation of seats in the general compartment

and on account of the same a false complaint had been filed against the petitioner and the other accused. It is submitted that the petitioner has been in

custody for nearly 53 days and further detention of the petitioner at any rate is not necessary in the facts and circumstances of the case.

4. The learned Public Prosecutor, on instruction, would point out that the petitioner is a native of Uttar Pradesh. It is submitted that if the petitioner is

granted bail at this stage, there is every chance of the petitioner absconding. It is submitted that investigation is only progressing and has not been

completed so far.

5. The learned counsel for the petitioner, in reply, would submit that the petitioner will be entitled to statutory bail on completing 60 days in custody and

since the investigation is not complete there is no likelihood of a final report being filed before the petitioner becomes entitled to statutory bail.

Taking into consideration the above facts and also taking note of the fact that the petitioner will be entitled to statutory bail on completion of 60 days in

custody, this bail application is allowed. It is directed that the petitioner shall be released on bail, subject to the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two solvent sureties each for the like sum to the satisfaction of the

jurisdictional Court. One among the sureties shall be a local surety;

(ii) The Petitioner shall report before the Investigating officer in Crime No.148/2023 of Railway Police Station, Kottayam District as and when summoned to do so;

(iii) The petitioner shall not attempt to interfere with the investigation, influence or intimidate the defacto complainant or any witness in Crime No.148/2023 of Railway

Police Station, Kottayam District;

(iv) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the Investigating officer in Crime No.148/2023 of Railway Police Station, Kottayam District may file an

application before the jurisdictional Court for cancellation of bail.