
(2024) 04 KL CK 0043

High Court Of Kerala

Case No: Bail Application No. 1812 Of 2024

XXXXXXXXXX

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: April 3, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 354, 506(i), 509
- Protection of Children from Sexual Offences Act, 2012 - Section 7, 8, 9(n), 10

Hon'ble Judges: A. Badharudeen, J

Bench: Single Bench

Advocate: V.A.Vinod, Renjith George

Final Decision: Allowed

Judgement

A. Badharudeen, J

1. This is a petition filed under Section 439 of the Code of Criminal Procedure, seeking regular bail and the petitioner is the accused in crime No.83/2024 of Vattappara Police Station, Thiruvananthapuram.

2. Heard the learned counsel for the petitioner as well as the learned Public Prosecutor, in detail. Perused the relevant materials available.

3. The prosecution case is that, on 21.01.2024, the petitioner herein, who is none other than the father of the victim, after consuming alcohol, touched on the private parts of the victim and thereby committed offences punishable under Sections 354, 509, 506(i) of IPC and Section 8 read with 7, Section 10 read with Section 9(n) of Protection of Children from Sexual Offences Act. The crime was registered on recording statement of

the mother of the victim, who is the defacto complainant. The accused was detained in custody on 23.01.2024.

4. The learned counsel for the petitioner would submit that the victim is a 75% mentally retarded girl and the wife, who is having illicit relationship, purposefully given statement against the petitioner to implicate him in this crime to detain him in custody. Learned counsel for the petitioner would concede that the petitioner is ready to abide any condition and the petitioner shall not enter the house until further orders.

5. The learned Public Prosecutor opposed grant of bail highlighting the grave nature of the offences committed by the petitioner.

6. It is discernible that the petitioner, who is a first time offender has been in custody from 23.01.2024 and the investigation has been practically completed. However, taking note of the fact that the petitioner is the father of the victim, I am inclined to enlarge the petitioner on bail on stringent conditions and one among the conditions is that, the petitioner shall not enter the village and the house where the defacto complainant and the victim are residing, until further orders and any such event, if reported or came to the notice of this court, the same by itself shall be a reason to cancel the bail hereby granted.

Therefore, this petition stands allowed. The petitioner is enlarged on bail on conditions:

i. The petitioner shall be released on bail on his executing bond for Rs.50,000/- (Rupees Fifty Thousand Only) with two solvent sureties, each for the like amount to the satisfaction of the Jurisdictional court concerned.

ii. The petitioner shall not intimidate the witnesses or tamper with evidence. He shall co-operate with the investigation and shall be available for trial.

iii. The petitioner shall appear before the Investigating Officer as and when directed, apart from appearing before the Investigating Officer on all Mondays between 9 am and 10 am, for a period of one month.

iv. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of this case, so as to dissuade him from disclosing such facts to the court or to any police officer.

v. The petitioner shall not enter the village and the house where the defacto complainant and the victim are residing, until further orders and any such event, if reported or came to the notice of this court, the same by itself shall be a reason to cancel the bail hereby granted.

vi. The petitioner shall not involve in any other offence during the currency of bail and any such event, if reported or came to the notice of this court, the same alone shall be a reason to cancel the bail hereby granted.