

## Balachandran Vs State Of Kerala

**Court:** High Court Of Kerala

**Date of Decision:** Jan. 30, 2025

**Acts Referred:** Bharatiya Nagarik Suraksha Samhita, 2023 " Section 483

Indian Penal Code, 1860 " Section 376, 376(3)

Protection of Children from Sexual Offences Act, 2012 " Section 3(a), 9(1), 4, 10, 11(iv), 12

**Hon'ble Judges:** Bechu Kurian Thomas, J

**Bench:** Single Bench

**Advocate:** Itty Paulson, Paul Paulson T., Dr. Thushara James

**Final Decision:** Allowed

### Judgement

Bechu Kurian Thomas, J

1. This is an application for regular bail under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Petitioner is the accused in Crime No.772/2021 of Cheruthuruthy Police Station, Thrissur District, he is alleged to have committed the offence under

various Sections, including Sections 376 and 376(3) of the Indian Penal Code, 1860, apart from Sections 4, 3(a), 10, 9(1), 12 and Section 11(iv) of the

Protection of Children from Sexual Offences Act, 2012.

3. On 22.06.2022, petitioner was granted bail in the aforesaid crime after he had undergone custody for almost eight months. In the meantime, after

the bail was granted, petitioner violated one of the conditions of bail and hence, the bail granted earlier was cancelled. Thereafter, petitioner

surrendered on 02.11.2024 and has been in custody since then. Petitioner's application for bail was dismissed by the Fast Track Special Court-I,

Thrissur in Crl.M.P. No.342/2024, and thereafter he has approached this Court in this bail application.

4. According to the prosecution, the accused had, prior to 13.09.2021, trespassed into the house of the victim, who is a minor aged 13 years, and raped

on her on several days. After petitioner was granted bail by this Court on 22.06.2022 in B.A. No.2714/2022, a petition was filed as Crl.M.P.

No.443/2022 alleging that the petitioner had violated the conditions in the bail order dated 22.06.2022 and sought to cancel the bail. It was alleged that

petitioner had entered into the limits of Cheruthuruty and restrained a witness, since that person had given a statement to the Police. A crime as

435/2022 was also registered against the petitioner. By order dated 29.10.2022, the said application was allowed and the bail was cancelled. Though

the said order was challenged in Crl.M.C. No.9026/2022, it was dismissed on 05.08.2024. Subsequently, petitioner filed Crl.M.C. No.342/2024 in S.C.

No.1181/2021, seeking bail which was dismissed on 06.11.2024. This application is filed thereafter.

5. Petitioner has been in custody from 02.11.2024 and almost 89 days have elapsed since he was taken into custody. Hence, petitioner seeks grant of

bail.

6. I have heard Sri. Itty Paulson, the learned counsel for the petitioner as well as Smt. Dr. Thushara James, the learned Public Prosecutor.

7. Taking note of the long period of custody from 09.10.2021 onwards, petitioner was granted bail by this Court on 22.06.2022. Thereafter, since he

violated the conditions of bail by intimidating the 4th witness, his bail was cancelled on 29.10.2022. However, petitioner surrendered on 02.11.2024,

and has been in custody since then.

8. Though the conduct of petitioner cannot be supported, still, as the petitioner has been in custody from 02.11.2024, taking note of the long period of

incarceration and also since the case is almost ripe for trial, I am of the view that continued custody of the petitioner is not warranted and he can be

released on bail on strict conditions. However, the witnesses cannot be contacted or threatened by the petitioner.

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

a) Petitioner shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the

trial court.

b) Petitioner shall regularly appear on every posting date before the trial court without any default.

c) Petitioner shall not intimidate or attempt to contact or interact with any of the witnesses or the victim.

d) Petitioner shall not commit any similar offences while he is on bail.

e) Petitioner shall not contact through any mode the victim or her family members and her relatives.

f) Petitioner shall not enter into the jurisdictional limits of Cheruthuruthy Police Station until completion of the trial.

g) The petitioner shall not leave the country without the permission of the jurisdictional Court.

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.