

(2024) 05 KL CK 0161

In the High Court Of Kerala

Case No : Bail Application Nos. 3902, 3907 Of 2024

Abhay P.A @ Abhay Padmanabhan

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 31-05-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 34, 341, 506

Protection of Children from Sexual Offences Act, 2012 — Section 11(iv), 12

Citation : (2024) 05 KL CK 0161

Hon'ble Judges : A. Badharudeen, J

Bench : Single Bench

Advocate : Sajeevan Kurukkuttiyullathil, Vishnu Prabhakar V.S., N.F.John Joseph Thomas, R.Sudhish, M.Manju, Renjit George

Final Decision : Allowed

Judgement

A. Badharudeen, J

1. These petitions have been filed under Section 438 of the Code of Criminal Procedure, seeking pre-arrest bail and the petitioners are 1st and 2nd accused in crime No.288/2024 of Nadapuram Police Station, Kozhikode.

2. Heard the learned counsel for the petitioners, the learned counsel appearing for the defacto complainant and the learned Public Prosecutor. Perused the relevant materials available.

3. The prosecution case is that, at about 4.30 pm on a day in January, 2024, the accused herein recorded nude video of the victim aged 14 years, particularly, that of his private parts and thereafter they have pushed the minor into a pond and threatened with dare consequences. Thereby, the prosecution alleges commission of offences punishable under Sections 341, 506 read with 34 of IPC and Sections 11(v) and 12 of the Protection of Children from Sexual Offences Act, 2012.

4. While pressing for grant of anticipatory bail to the petitioners, the learned counsel for the petitioners would submit that the petitioners are innocent and the prosecution allegations are false. He submitted further that, now the matter has been settled between the parties. Hence, the petitioners deserve bail and they are ready to co-operate with the investigation.

5. The learned counsel for the defacto complainant also concedes the settlement, since the parties are nearby residents.

6. The learned Public Prosecutor opposed grant of bail to the petitioners and pointed out that, there ingredients to attract the offences alleged against the petitioners and recovery of the alleged video is necessary for the purpose of investigation.

7. Going by the prosecution records, there are materials to see commission of offences by the accused, prima facie. However, while addressing the allegations, it is to be noted that, recovery of the so called video alleged to be taken by the accused, as that of the victim, is necessary to facilitate investigation.

8. Thus, it appears that by directing the petitioners to co-operate with the investigation by subjecting themselves for interrogation, effective investigation is possible in this case. Thus, I am inclined to enlarge the petitioners on anticipatory bail, with direction to the petitioners to surrender before the Investigating Officer and to produce the device containing the so called video before the investigating officer for the purpose of interrogation.

Therefore, these petitions stand allowed. The petitioners are enlarged on pre-arrest bail on conditions:

i. The petitioners shall surrender before the Investigating Officer within ten days from today and on such surrender, the Investigating Officer can question the petitioners, record their statement and recover the device containing the alleged video taken by the accused as that of the victim. In the event of their arrest, the Investigating Officer shall produce the petitioners before the Jurisdictional Court on the date of arrest itself.

ii. On such production, Jurisdictional Court shall release the petitioners on bail, on executing bond for Rs.30,000/- (Rupees Thirty thousand) each, by themselves and by two sureties, each for the like sum to the satisfaction of the Jurisdictional Court.

iii. The petitioners shall co-operate with investigation and shall be made available for interrogation and for the purpose of investigation, as and when the Investigating Officer directs so.

iv. The petitioners, shall not, intimidate the witnesses or interfere with the investigation in any manner.

v. The petitioners shall not commit any offence during currency of this bail and any such involvement is a reason to cancel the bail hereby granted.