
(2023) 10 KL CK 0168
In the High Court Of Kerala
Case No : Bail Application No. 8786 Of 2023

Al Ameen

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 30-10-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 307, 341, 354A(1)(i), 354D, 363, 427, 452
Protection of Children from Sexual Offences Act, 2012 — Section 7, 8, 9(g), 10, 11(iv),
12, 17

Citation : (2023) 10 KL CK 0168

Hon'ble Judges : Gopinath P, J

Bench : Single Bench

Advocate : Nireesh Mathew, G. Sudheer

Final Decision : Dismissed

Judgement

Gopinath P, J

1. The petitioners are accused Nos. 2 and 3 in Crime No.878/2023 of Nooranadu Police Station, Alappuzha District alleging commission of offences punishable under Sections 363, 354 A (1) (i), 354D and 34 of the Indian Penal Code and Section 8 read with 7, 10 read with 9 (g), 12 read with 11 (iv), 17 read with 16 of the Protection of Children from Sexual Offences Act, 2012 (the POCSO Act).

2. The allegation is that the 1st accused who was working as a Conductor in the bus who acquainted with a minor victim girl and on 26-08-2023 while the minor victim girl was waiting for a bus to return from school to her house, after Onam celebrations, the 1st accused along with the petitioners came in a car bearing registration No.KL-31/R – 6453. It is alleged that the 2nd accused / 1st petitioner was the Driver of the car and the 3rd accused / 2nd petitioner was sitting in the front passenger seat. It is alleged that the 1st accused who was sitting in the back seat of the car persuaded the minor victim to enter the car and thereafter sexually abused her.

3. The learned counsel appearing for the petitioners would submit that the petitioners are absolutely innocent in the matter. It is submitted that even if the allegations against the 1st accused are accepted as true, the petitioners cannot be stated to have committed the offences as alleged against them. It is submitted that the only allegation against the petitioners is that the 1st petitioner / 2nd accused was driving the car and the 2nd petitioner / 3rd accused was sitting in the front passenger seat. It is submitted that the petitioners have been in custody from 27-09-2023 and the continued detention of the petitioners is not necessary in the facts and circumstances of the case.

4. The learned Public Prosecutor opposes the grant of bail. He submits that both the petitioners have criminal antecedents. It is submitted that the 1st petitioner / 2nd accused is also accused in Crime Nos.383/2017 of Nooranad Police Station, Crime No.1785/2022 of Adoor Police Station and Crime No.717/2022 of Pandalam Police Station. The details of the cases registered against the 1st petitioner / 2nd accused are as follows;

1

Crime No.383/2017

Nooranadu Police Station

U/Ss. 143, 147, 341, 323 read with 149 of IPC

2

Crime No.1785/2022

Adoor Police Station

U/S. 394 of IPC

3

Crime No.717/2022

Pandalam Police Station

U/Ss. 324 and 326 of IPC

It is submitted that the 2nd petitioner is accused in Crime No. 676/2019 of Karunagapally Police Station alleging commission of offences under Sections 452, 427, 341, 307, 201 and 34 of IPC. It is submitted that considering the criminal antecedents, the petitioners may not be granted bail.

5. Having heard the learned counsel appearing for the petitioners and the learned Public Prosecutor, I am of the view that the petitioners can be granted bail, though criminal antecedents as noticed above are reported against the petitioners. The allegations in the present case do not compel me to hold that they are to be continued in custody for the purpose of completing the investigation into Crime No.878/2023 of Nooranadu Police Station, Alappuzha.

Apart from the fact that the petitioners have criminal antecedents, no other compelling reason is shown as to why their continued detention may be necessary to complete the investigation into Crime No.878/2023. Accordingly this bail application is allowed. The petitioners shall be released on bail, subject to the following conditions:-

(i) The petitioners shall execute separate bonds for sums of Rs.50,000/-(Rupees fifty thousand only) each with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court;

(ii) The Petitioners shall appear before the investigating officer in Crime No.878/2023 of Nooranadu Police Station, Alappuzha on every Wednesday and Saturday at 11 a.m until further orders;

(iii) The petitioners shall not attempt to interfere with the investigation, influence or intimidate the victim or any witness in Crime No.878/2023 of Nooranadu Police Station, Alappuzha;

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

If any of the aforesaid conditions are violated, the investigating officer in Crime No.878/2023 of Nooranadu Police Station, Alappuzha may file an application before the jurisdictional Court for cancellation of bail.