
(2021) 06 KL CK 0003
In the High Court Of Kerala
Case No : Bail Appl. No. 4313 Of 2021

Ali	Vs	APPELLANT
State Of Kerala		RESPONDENT

Date of Decision : 01-06-2021

Acts Referred:

Protection of Children against Sexual Offences (POCSO) Act, 2012 — Section 7, 8, 9(I)(m), 10
Indian Penal Code, 1860 — Section 354A(1)(i)
Code of Criminal Procedure, 1973 — Section 439

Citation : (2021) 06 KL CK 0003

Hon'ble Judges : Raja Vijayaraghavan V, J

Bench : Single Bench

Advocate : M.R.Sasith, Ajith Murali

Final Decision : Allowed

Judgement

1. The above captioned application seeking regular bail has been filed under Section 439 of the Code of Criminal Procedure ("Code" for short)

by the sole accused in Crime No.244 of 2021 of the Guruvayoor Police Station registered inter alia under Sections 8 r/w 7 and 10 r/w 9(I)(m) of

Protection of Children against Sexual Offences (POCSO) Act and Section 354A(1)(i) of IPC.

2. The petitioner is running a stationery shop. The victim is a child aged 10 years. She used to frequent the shop of the petitioner. It is alleged that on

18.04.2021 at 5.30 p.m., when the child came to the shop of the petitioner, he is alleged to have hugged her and groped her breast. In her statement,

she reiterated that the petitioner has on earlier occasions committed the very same acts.

3. The learned counsel appearing for the petitioner submitted the petitioner was

arrested on 26.04.2021 and has been in custody since then. The learned counsel appearing for the petitioner submitted that the petitioner is in his early 50s and there are disputes between the relatives of the child and him in connection with payments due to him. The learned counsel would urge that the fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. He would vehemently urge that any imprisonment before conviction has a substantial punitive content and which has time and again been disapproved by this Court as well as the Apex Court.

4. The learned Public Prosecutor has very vehemently opposed the prayer. It is submitted that the allegations are extremely grave.

5. I have considered the submissions advanced and have perused the materials which are made available. From the statement of the learned Public

Prosecutor it appears that the investigation has progressed to the final stages. There is some delay in setting the law in motion as well. Having

considered all the relevant aspects, including the nature of accusations, the age and antecedents of the petitioner, the severity of the punishment which

conviction would entail, the reasonable possibility of securing his presence at the stage of trial, and other factors I am of the view that the further

detention of the petitioner in custody is not necessary. He can be granted bail by imposing appropriate conditions.

6. In the result, this application will stand allowed, however, it shall be subject to the following conditions:

1. The petitioner shall be released on bail on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum to the

satisfaction of the court having jurisdiction.

2. The petitioner shall appear before the Investigating Officer between 9 a.m. and 11 a.m. on every Saturday for a period of two months or until the filing of the final

report whichever is earlier.

3. The petitioner shall not intimidate or attempt to influence the witnesses; nor shall he tamper with the evidence. He shall not contact the victim in any manner whatsoever.

4. He shall not commit any offence while on bail.

5. He shall not enter the limits of Guruvayoor police station for a period of six months except for complying with condition No. (a) above.

If for any extraordinary reason the applicant requires to enter the limits, previous permission has to be obtained from 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.