
(2022) 07 KL CK 0090
In the High Court Of Kerala
Case No : Bail Application No. 4941 Of 2022

Ammed

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 11-07-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 354A, 354B, 363
Protection of Children from Sexual Offences Act, 2012 — Section 7, 8, 9(m), 10

Citation : (2022) 07 KL CK 0090

Hon'ble Judges : Bechu Kurian Thomas, J

Bench : Single Bench

Advocate : K.Reeha Khader, Reshma R.Nair, M.K.Pushpalatha

Final Decision : Allowed

Judgement

Bechu Kurian Thomas, J

1. This is an application for regular bail filed under Section 439 of the Code of Criminal Procedure, 1973.
2. Petitioner is the accused in Crime No.267 of 2022 of Kuttiady Police Station registered for the offences punishable under Sections 363, 354A and Section 354B of the Indian Penal Code, 1860 and also under Sections 8 r/w Section 7 and Section 10 r/w Section 9(m) of the Protection of Children from Sexual Offences Act, 2012.
3. The prosecution case is that, on 04.06.2022, the accused caught hold of the victim girl, who is aged only 10 years, and forcefully took her inside his house and committed sexual assault by kissing her on her cheeks and lips and thereafter unbuttoned her dress and touched her breasts, thereby committing the offences alleged against him.
4. Smt.Reeha Khader, the learned counsel for the petitioner, submitted that the petitioner is a 74 year old person, suffering from various illnesses and that he

was arrested on 05.06.2022. It was urged that considering the medical condition of the petitioner and his age, the continued detention may not be permitted. According to the counsel, petitioner is willing to abide by any condition and that he is totally innocent of the allegations.

5. Smt.M.K.Pushpalatha, the learned Public Prosecutor, vehemently opposed the grant of bail and submitted that petitioner has committed a heinous crime. It was further submitted that the medical condition as evident from the medical certificate, issued by the Medical Officer, did not reveal any serious illnesses so as to grant bail to the petitioner.

6. A perusal of the case diary reveals that prima facie there are materials on record to connect the petitioner with the crime. However, since petitioner was remanded to judicial custody on 05.06.2022, I am of the view that the continued detention of the petitioner is not required in the circumstances of the case. Therefore, the petitioner is entitled to be released on bail.

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

(i) 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.

(ii) Petitioner shall appear before the Investigating Officer as and when required;

(iii) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he tamper with the evidence or contact the victim or her family members;

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

(v) Petitioner shall not leave India without the permission of the Court having jurisdiction.

8. 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.