

(2023) 05 KL CK 0078

In the High Court Of Kerala

Case No : Bail Application No. 3627 Of 2023

Anwer Hussain K.K

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 12-05-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 354, 354A, 354C, 354D
Protection of Children from Sexual Offences Act, 2012 — Section 7, 8, 9(n), 10, 11(iv), 12

Citation : (2023) 05 KL CK 0078

Hon'ble Judges : P.G. Ajithkumar, J

Bench : Single Bench

Advocate : Lal K.Joseph, P.Muraleedharan, T.A.Luxy, Suresh Sukumar, Koya Arafa Mirage, Anzil Salim, Siddharth Karun Pisharody, P.G. Manu

Final Decision : Dismissed

Judgement

P.G. Ajithkumar, J

1. This is an application for bail filed under Section 439 of the Code of Criminal Procedure, 1973.
2. The petitioner is the accused in Crime No.1 of 2023 of Anthroth Police Station, Lakshadweep. He allegedly had committed the offences punishable under Sections 354, 354A, 354C and 354D of the Indian Penal Code, 1860 and Section 7 r/w 8, 9(n) r/w 10 and 11 (iv) r/w 12 of the Protection of Children from Sexual Offences Act, 2012.
3. The case of the prosecution is that the petitioner had sexually assaulted 17 year daughter of the defacto complainant on repeated occasions. He had peeped through window while the victim girl was changing her dress once. On a later occasion, he pressed at her buttock during a marriage function. The further allegation is that he used to utter sexually coloured words at her.

4. A complaint in the above regard was submitted by the defacto complainant on 26.02.2023 and the petitioner was arrested on 27.02.2023. Petitioner has been in judicial custody ever since.

5. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

6. The petitioner would contend that he did not involve in the alleged crime and without any material or evidence, he has been implicated in the crime. He is innocent. The investigation in the matter has been progressed considerably and there is no reason or justification for his further detention.

7. The learned Public Prosecutor would submit that considering the seriousness of the offence and the possibility of interfering with the investigation by the petitioner in the event of his release on bail, this petition deserves only to be dismissed.

8. No doubt, the offence/offences alleged against the petitioner is serious in nature. It is seen that investigation in the matter has been progressed considerably. The petitioner has been in judicial custody since 27.02.2023. Considering the aforesaid aspects and also the nature of the offence, I am of the view that further detention of the petitioner pending investigation is unnecessary. Therefore the petitioner is entitled to be released on bail.

9. In the result, the bail application is allowed and the petitioner is granted bail on his executing a bond for Rs.50,000/- (Rupees fifty thousand only), with two solvent sureties for the like amount each, to the satisfaction of the learned Sessions Judge, subject to the following conditions:

(i) The petitioner shall not influence or intimidate witnesses or tamper with evidence;

(ii) petitioner shall appear before the investigating officer as and when called for until filing the final report;

(iii) During the period of bail, petitioner shall not get involved in any other offence.

(iv) The petitioner shall not enter the territorial limits of Anthroth Police Station, Lakshadweep island except to comply with the aforesaid conditions, till filing of the final report.

In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court.