

(2024) 03 KL CK 0082
In the High Court Of Kerala
Case No : Bail Application No. 911 Of 2024

Dinesh Babu.C.K

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 11-03-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 354A(1)(i), 376AB, 376(2)(n)(f), 450
Protection of Children from Sexual Offences Act, 2012 — Section 3(a), 4(2), 5(l),
5(m), 5(n), 6, 9(l), 9(m), 9(n) 10, 11(vi), 12

Citation : (2024) 03 KL CK 0082

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

Bench : Single Bench

Advocate : K.V.Sree Vinayakan, Prasanth M

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.889/2023 of Pantheerankavu Police Station. He allegedly had committed the offences punishable under Sections 376(2)(n) (f), 376 AB, 354A(1)(i) and 450 of the Indian Penal Code and Sections 4(2) read with 3(a), 6 read with 5(l)(m)(n), 10 read with 9(l)(m)(n) and 12 read with Section 11(vi) of the Protection of Children from Sexual Offences Act.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor. As ordered by this Court, notice was served on the father of the de facto complainant. He did not choose to appear before this Court or object the petition.

4. The prosecution allegation is that, the victim while studying in the 5th standard was subjected to penetrative sexual assault by the petitioner on several occasions. Since the victim was aged below 12 years, the offence amounted to

an aggravated penetrative sexual assault. She was subjected to sexual assault by the petitioner trespassing into the said house.

5. 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.

6. 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 deserve only to be dismissed.

7. The petitioner was arrested on 10.11.2023 and he has been in custody ever since. The final report in the matter is already submitted. In such circumstances, the petitioner is entitled to be released on bail, but considering the fact that the petitioner is the neighbour of the victim, the bail can be granted subject to strict conditions only.

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 Magistrate, subject to the following conditions:

- (i) He shall not influence or intimidate witnesses or tamper with evidence;
- (ii) He shall appear before the investigating officer as and when called for; and
- (iii) During the bail period, he shall not get involved in any offence.
- (iv) The petitioner shall not enter the local limits of Panthirankavu Police Station until further orders.

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.