

(2023) 10 KL CK 0137

In the High Court Of Kerala

Case No : Bail Application Nos. 8878 & 8883 Of 2023

Gopinathan Pilla

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 20-10-2023

Acts Referred:

Indian Penal Code, 1860 — Section 354, 363

Protection of Children from Sexual Offences Act, 2012 — Section 9(l), 9(m), 10

Citation : (2023) 10 KL CK 0137

Hon'ble Judges : Gopinath P., J

Bench : Single Bench

Advocate : K.B.Gangesh, Vipin Narayan

Final Decision : Dismissed

Judgement

Gopinath P., J

1. These are applications for regular bail.

2. The petitioner is common in both these bail applications. He is accused in Crime No.626 of 2023 as also in Crime No.627 of 2023 both of Peechi Police Station, Thrissur District. The offences alleged in Crime No.626 of 2023 are under Sections 354 and 363 of the Indian Penal Code and Section 10 read with Sections 9(l) and 9(m) of the POCSO Act. The allegation leading to Crime No.626 of 2023 is that the petitioner, who is running a petty shop in front of LP school, Pattikkad, had touched the left breast of the minor victim aged 14 years and thereby he committed the offences alleged. It is also alleged that on an earlier occasion, the petitioner had committed sexual assault by catching hold of the same victim on her thigh. The offences alleged in Crime No.627 of 2023 is that under Sections 354 and 363 of the Indian Penal Code and Section 10 read with Sections 9(l) and 9(m) of the POCSO Act. In Crime No. 627 of 2023, the allegation is that the accused touched and massaged the thigh of the minor victim girl aged 10 years on 13.10.2022 and thereby he committed the offences

alleged against him.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a 75 year old man, who is also disabled to the extent that he is unable to walk. It is submitted that the allegations had been raised on the basis of political rivalry as the petitioner is a strong supporter of the political party, which is in opposition in the Grama Panchayat. It is submitted that the shop run by the petitioner is a place where the members of the opposition of the Grama Panchayat convene for various purposes and therefore, the ruling party had decided to remove the shop of the petitioner from the place where it is situated and for this reason a false cases have been registered against the petitioner. It is submitted that the petitioner has been in custody from 13.09.2023 after his arrest was recorded in both the crimes registered against him and he has therefore completed more than a month in custody. It is submitted that the continued detention of the petitioner is not necessary in the facts and circumstances of the case.

4. The learned Public Prosecutor would point out that the allegations raised against the petitioner in both cases are extremely serious. It is submitted that in one case the victim was aged 14 and in the other case, the victim was aged only 10. It is submitted that the investigation is only progressing and the grant of bail to the petitioner at this stage may not be conducive. However, it is confirmed that no other antecedents are reported against the petitioner.

5. Having heard the learned counsel for the petitioner and the learned Public Prosecutor, I am of the view that the petitioner can be granted bail subject to conditions. The petitioner is aged 75 and he has been in custody from 13.09.2023 (in both cases). Apart from the fact that the allegations are serious, no other compelling reason is shown as to why the petitioner must be continued in custody. The allegations against the petitioner are as noticed above. The petitioner is a handicapped man, who is unable to walk. Therefore, I am inclined to grant bail to the petitioner subject to conditions.

6. Accordingly, these bail applications are allowed and it is directed that the petitioner shall be released on bail in both the cases registered against the petitioner subject to the following conditions:-

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

(ii) The petitioner shall report before the Investigating officer in Crime Nos.626 of 2023 and 627 of 2023 both of Peechi Police Station, Thrissur District, as and when summoned to do so;

(iii) The petitioner shall not attempt to interfere with the investigation, influence or intimidate the victim or any witness in Crime Nos.626 of 2023 and 627 of

2023 both of Peechi Police Station, Thrissur District;

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

(v) The petitioner shall not commit similar offence.

If any of the aforesaid conditions are violated, the Investigating officer in Crime Nos.626 of 2023 and 627 of 2023 both of Peechi Police Station, Thrissur District, may file an application before the jurisdictional Court for cancellation of bail.