
(2022) 12 KL CK 0044
In the High Court Of Kerala
Case No : Bail Application No. 9403 Of 2022

Hussain

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 05-12-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code 1860 — Section 354A(1)(i), 354A(1)(iii)
Protection of Children from Sexual Offences Act, 2012 — Section 7, 8, 9(f), 9(l), 9(m),
10, 11(iii), 12

Citation : (2022) 12 KL CK 0044

Hon'ble Judges : Bechu Kurian Thomas, J

Bench : Single Bench

Advocate : Keerthi M, Arjun Raja P.C., Akshay Venu, Sreenath Vijayaraghavan,
M.K Pushpalatha

Final Decision : Allowed

Judgement

Bechu Kurian Thomas, J.

1. This is an application seeking regular bail filed under Section 439 of the Code of Criminal Procedure, 1973.
2. Petitioner is the accused in Crime No.662 of 2022 of Pattambi Police Station, Palakkad, alleging offences punishable under Sections 354A(1)(i) & (iii) of the Indian Penal Code, 1860 apart from Section 8 r/w Section 7, Section 10 r/w Section 9(f)(l)(m), Section 12 r/w Section 11(iii) of the Protection of Children from Sexual Offences Act, 2012.
3. According to the prosecution, the accused who is the driver of a school bus had sexually abused the minor girl, aged less than 12 years, while he was driving the school bus and also showed porn videos to the minor girl and thereby committed aggravated sexual assault as well as sexual harrassment. The accused was arrested on 15.10.2022 and has been in custody since then.

4. Smt.Keerthi M., the learned counsel for the petitioner contended that the entire prosecution allegations are false and the incident as alleged had not occurred. It was further submitted that petitioner has been targeted due to an animosity with one of the teachers in the school and false allegations have been levelled against him. In any event, it was submitted that final report was filed and taking into consideration the period of detention already undergone, petitioner ought to be released on bail.

5. Smt.M.K.Pushpalatha, the learned Public Prosecutor opposed the grant of bail and contended that the allegations are serious and if the petitioner is released on bail, it would cause prejudice to the prosecution and he may even influence the witnesses.

6. The victim is a minor, less than 12 years, who is alleged to have been sexually harrassed by the accused. However, since petitioner was arrested on 15.10.2022 and the final report has already been filed, I am of the view that, taking into consideration the entire circumstances, further detention is not essential.

7. Accordingly, I allow this application on the following conditions :-

(a) Petitioner shall be released on bail on him 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.

(b) Petitioner shall co-operate with the trial of the case.

(c) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he attempt to tamper with the evidence.

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

(e) Petitioner shall not leave the country without the permission of 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, notwithstanding the bail having been granted by this Court.