

(2022) 12 KL CK 0086
In the High Court Of Kerala
Case No : Bail Application No. 9433 Of 2022

Hussain

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 07-12-2022

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

Citation : (2022) 12 KL CK 0086

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 sole accused in Crime No.664/2022 of Pattambi Police Station, Palakkad District. The offences alleged against the petitioner are under Sections 354A(1)(i) & (iii) of the Indian Penal Code, 1860 and Section 7 r/w Section 8 and Section 9(f) (l)(m) r/w Section 10 of the Protection of Children From Sexual Offences Act, 2012.

3. According to the prosecution, the accused had on 30.08.2022 and again on 31.08.2022, committed aggravated sexual assault and sexual harassment on a minor girl aged 11 years and thereby committed the offences alleged.

4. Adv.Keerthi.M, learned Counsel for the petitioner contended that the entire prosecution allegations are false and that petitioner has been falsely roped in as

an accused due to an enmity with one of the Teachers in the school. It was further submitted that petitioner was arrested on 15.10.2022, and has been in custody since then and that in seven other cases, all registered on the same day, this Court had granted bail, while in two other cases, the Sessions Court had also granted bail to the petitioner.

5. Smt.M.K.Pushpalatha, learned Public Prosecutor on the other hand opposed the grant of bail and submitted that the prosecution allegations are serious in nature, and that even though the investigation is almost completed, final report has not yet been filed. It was also submitted that if the petitioner is released on bail, there is every chance of him influencing the witnesses.

6. I have considered the rival contentions and have also perused the records perused.

7. Having regard to the circumstances, even though the allegations are serious in nature, considering the period of detention already undergone, I am of the view that further detention would not serve any purpose, especially since the investigation is almost completed.

In the result, this application is allowed 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 appear before the Investigating Officer as and when required.

(c) 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.

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

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

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.