

(2022) 06 KL CK 0255

In the High Court Of Kerala

Case No : Bail Application No. 4609 Of 2022

Muhammed Kutty, S.O.Moosa

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 22-06-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 354, 354D

Protection of Children from Sexual Offences (POCSO) Act, 2012 — Section 7, 8, 9(I)(m), 11(vi), 12

Citation : (2022) 06 KL CK 0255

Hon'ble Judges : Bechu Kurian Thomas, J

Bench : Single Bench

Advocate : C.G.Preetha, N.G.Anitha, Dr.Abhilash O.U., Nima Jacob

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.206 of 2022 of Mangalam Dam Police Station registered for the offences punishable under Sections 354A(1)(i) of the Indian Penal Code 1860 and also under Section 8 r/w Sec.7, Sec.10 r/w Sec.9(I)(m), Sec.12 r/w 11(vi) of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

3. The prosecution case is that, on 16.05.2022 at about 4 p.m., the accused with sexual intent press the breast of the minor victim aged only 10 years and thereby committed aggravated sexual assault on her. It was also alleged that on previous occasions also petitioner had indulged in similar attempts with the victim.

4. Smt.C.G.Preetha, the learned counsel for the petitioner, submitted that, the

petitioner is totally innocent and has been in custody since 20.05.2022. It is further submitted that the entire accusation against the petitioner is falsely raised due to an enmity with the father of the victim.

5. Smt.Nima Jacob, the learned Public Prosecutor, vehemently opposed the grant of regular bail and submitted that the offences committed by the petitioner are grave in nature.

6. A perusal of the case diary reveals that prima facie there are materials on record to connect the petitioner with the crime. However, since petitioner was remanded to judicial custody on 20.05.2022, I am of the view that the continued detention of the petitioner is not required in the circumstances of the case. Therefore, the petitioner is entitled to be released on bail.

7. In the result, this application is allowed on the following conditions:-

(i)Petitioner shall be released on bail on his 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.

(ii)Petitioner shall appear before the Investigating Officer as and when required.

(iii) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he tamper with the evidence or contact the victim or their family members;

(iv) He shall not commit any offence while he is on bail.

(v) The applicant shall not leave India without the permission of the Court having jurisdiction.

(vi) 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.