
(2022) 06 KL CK 0309
In the High Court Of Kerala
Case No : Bail Application No. 3931 Of 2022

Pondson John

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 27-06-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 201, 341, 376, 450
Protection of Children from Sexual Offences Act, 2012 — Section 3(a), 3(b), 4, 7, 8, 9(l), 10

Citation : (2022) 06 KL CK 0309

Hon'ble Judges : Bechu Kurian Thomas, J

Bench : Single Bench

Advocate : K.Shaj, C.Ijlal, Arun Chand, Joseph Mary Das, Vinayak G Menon, Bharat Vijay P,. Majid Muhammed K, P.Vijaya Bhanu, 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 first accused in Crime No.178/2022 of Pathanamthitta Vanitha Police Station registered for offences under Sections 450, 341, 376 & 201 of the Indian Penal Code, 1860 and Sections 3(a) & (b) r/w Section 4, Section 7 r/w Section 8 & Section 9(l) r/w Section 10 of the Protection of Children from Sexual Offences Act, 2012.
3. Prosecution case is that on 12.03.2022, whe the victim – a girl of 17 years, was brought for counselling to the house of the petitioner, who is a priest, during the course of the counselling, he committed sexual assault on the victim and thereafter on the next day, again under the guise of counselling, he repeated the sexual acts including penetrative sexual assault on the victim.

4. Sri.P.Vijaya Bhanu, the learned Senior counsel, duly assisted by Adv.K.Shaj submitted that petitioner is totally innocent and has not committed any offence and that he has been roped in due to personal vendetta. It was further submitted that since the petitioner was arrested as early as on 17.03.2022, further detention is not required, especially since the final report was filed as early as on 15.04.2022.

5. Smt.Nima Jacob, the learned Public Prosecutor vehemently opposed the grant of bail and pointed out that the accused, being a priest had indulged in sexual acts of a serious nature, that too, on a minor victim and releasing him on bail could send a wrong message to the society. It was also submitted that considering the influence that could be wielded by the petitioner over the victim and her family, the chances of prejudicing the prosecution case is writ large.

6. It is true that the petitioner as a priest, is alleged to have committed a heinous crime that too on a minor girl. However, having regard to the fact that petitioner was arrested as early as on 17.03.2022, I am of the view that continued detention of the petitioner is not required, taking note of the fact that the final report has already been filed. In such circumstances, I am inclined to allow this application.

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

(a) The petitioner shall be released on bail on his executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties each for the like sum to the satisfaction of the court having jurisdiction.

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

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

(d) The petitioner shall not commit any similar offence while he is on bail.

(e) Petitioner shall not conduct counselling classes/ sessions to women and children until conclusion of the trial.

(f) Petitioner shall not interact/ communicate through any mode of communication with the victim or her family members until conclusion of the trial.

(g) The 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.