

(2022) 11 KL CK 0064
In the High Court Of Kerala
Case No : Bail Application No. 8174 Of 2022

Radhakrishna Pillai

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 07-11-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 354A(1)(ii), 354(D)(1), 376, 509
Protection of Children from Sexual Offences Act, 2012 — Section 3, 4, 11(i), 11(iv), 11(vi), 12

Citation : (2022) 11 KL CK 0064

Hon'ble Judges : Bechu Kurian Thomas, J

Bench : Single Bench

Advocate : K.Siju, S.Abhilash, Anjana Kannath, T.S.Sreekutty, Noushad K.A

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.1432/2022 of Chadayamangalam Police Station, Kollam District. The offences alleged against the petitioner are under Sections 354A(1)(ii), 354(D)(1) and Section 509 of the Indian Penal Code. 1860 apart from Section 11(i), 11(iv), 11(vi) and Section 12 of the Protection of Children from Sexual Offences Act, 2012.

3. According to the prosecution, during the period from 06.09.2020 to 24.09.2022, the accused sexually harassed the victim aged 9 years, by exhibiting his nudity and attempted to entice the child by offering gratification and thereby committed the offences alleged.

4. Sri.K.Siju, learned Counsel for the petitioner contended that the accused is the maternal uncle of the victim and that the allegations have been raised on

account of a property dispute between them. It was further contended that the only allegation is that, petitioner had urinated in front of the victim and therefore, considering the period of detention already undergone and the age of the accused, further detention ought not to be permitted.

5. Sri.K.A.Noushad, learned Public Prosecutor on the other hand opposed the grant of bail and contended that the allegations are serious in nature. It was also pointed out that the victim has not stated anything regarding the alleged relationship with the petitioner and nor has she stated that there was any incident of urinating in front of him. On the contrary, it was specifically alleged that the accused was in the habit of exhibiting his nudity repeatedly from 2019 onwards. It was also stated that petitioner has criminal antecedents in the form of offences under Sections 376 apart from Section 3 and 4 of the POCSO Act.

6. I have considered the rival contentions and perused the statement of the victim.

7. The victim had clearly stated that the accused is in the habit of exhibiting his nudity to the victim. Even though the allegations are serious in nature, considering the age of the petitioner, which is 66 years, and the period of detention already undergone, I am of the view that further detention is not essential for the purpose of investigation.

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

(a) Petitioner shall be released on bail on him executing 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 defacto complainant or her family members.

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

(f) 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.