

(2013) 11 KL CK 0040
In the High Court Of Kerala
Case No : Bail Application No. 7324 of 2013

Sajad @ Sanju and Sooraj

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 04-11-2013

Acts Referred:

Citation : (2013) 11 KL CK 0040

Hon'ble Judges : P. Bhavadasan, J

Bench : Single Bench

Advocate : C. Rajendran, for the Appellant; P. Maya, Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

P. Bhavadasan, J.—Petitioners are accused Nos. 2 and 4 in Crime No. 1950 of 2013 of Kollam East Police Station who is alleged to have committed the offences punishable under Sections 366, 354 and 376 of IPC and Sections 3, 4, 7, 8, 11 and 12 of the Protection of Children from Sexual Offences Act and Section 119(b) of the Kerala Police Act. Among the petitioners, the second petitioner is the auto driver by profession. The allegation against petitioners is that the first petitioner took the victim to his house and kissed and pressed her breast and later on, took her in the autorikshaw driven by the fourth accused, took her to a beach and then her nude photographs were taken.

2. Petitioners would say that they are innocent and have been falsely implicated. In fact, the second accused would say that the victim and he were in love and nothing has happened as alleged. The second petitioner would say that he was unaware of the purpose of the victim and the second accused were travelling in his autorikshaw and he has been unnecessarily implicated. At any rate, it is pointed out that the petitioners have been in custody from 25.09.2013 onwards and their continued custody is unnecessary.

3. The learned Public Prosecutor opposed the petition and pointed out that the

offences attributed to the petitioners are of grave nature and no leniency can be shown and the investigation is going on.

After having heard the learned counsel for the petitioners and the learned Public Prosecutor and have perused the records, claim of the petitioners that they are innocent cannot be countenanced. The role attributed to the first petitioner is not as stated by the second petitioner. He has only taken the victim to his house, kissing her and squeezing her breast. There is some materials in the CD to show that the victim had an affinity towards the second accused. The role of the second petitioner who is the fourth accused is only that he has taken the victim and the first petitioner in his autorikshaw. He is not attributed to any overt acts to the victim.

The fact remains that petitioners have been in custody from 25.09.2013 onwards, a good part of the investigation must have been completed by now. Since no apprehension is expressed by the investigating agency that if the petitioners are released on bail, they are likely to abscond, their continued custody appears to be unnecessary.

The petition is allowed as follows:

- i) Petitioners shall be released on bail on each of them executing a bond for a sum of Rs. 25,000/-(Rupees Twenty Five thousand only) with two solvent sureties for the like sum each to the satisfaction of the Court concerned.
- ii) The court concerned shall ensure the identity of the sureties and also the veracity of the tax receipts before granting bail.
- iii) Petitioners shall appear before the Investigating Officer on every Wednesday between 9 am and 10 am until further orders.
- iv) Petitioners shall not tamper or attempt to tamper with the evidence or influence or try to influence the witness.
- v) If any of the conditions is violated, bail granted to the petitioners shall stand cancelled and the court concerned may take such steps as are available to it in accordance with law.