
(2023) 05 KL CK 0069
In the High Court Of Kerala
Case No : Bail Application No. 3352 Of 2023

Sujinmon

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 12-05-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 377

Protection of Children from Sexual Offences Act, 2012 — Section 3(a), 4, 5(m), 6, 51

Citation : (2023) 05 KL CK 0069

Hon'ble Judges : P.G. Ajithkumar, J

Bench : Single Bench

Advocate : R.Gopan, T.V. Neema

Final Decision : Dismissed

Judgement

P.G. Ajithkumar, J

1. This is an application for bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. The petitioner is the accused in Crime No.339 of 2023 of Vellarada Police Station. He allegedly had committed the offences punishable under Sections 377 of the Indian Penal Code, 1860 and Section 3(a) r/w 4, 5(m) r/w Section 6 and 51 of the Protection of Children from Sexual Offences Act, 2012.

3. The prosecution case is as follows:

The petitioner was engaged as a worker for the renovation of the house where the survivor boy was residing. The boy was aged only 6 years. At about 3.00 p.m on 13.03.2023, the petitioner had taken the child to a room in that house and committed on him unnatural offence and also aggravated sexual assault.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

5. The petitioner would contend that he did not involve in the alleged crime and

without any material or evidence, he has been implicated in the crime. He is innocent. The investigation in the matter has been progressed considerably and there is no reason or justification for his further detention.

6. The learned Public Prosecutor would submit that considering the seriousness of the offence and the possibility of interfering with the investigation by the petitioner in the event of his release on bail, this petition deserves only to be dismissed.

7. No doubt, the offences alleged against the petitioner are serious in nature. It is seen that investigation in the matter has been progressed considerably. The petitioner was arrested on 14.03.2023 and ever since he has been in judicial custody. Considering the aforesaid aspects and also the nature of the offence, I am of the view that further detention of the petitioner pending investigation and trial is unnecessary. Therefore the petitioner is entitled to be released on bail.

8. In the result, the bail application is allowed and the petitioner is granted bail on his executing a bond for Rs.50,000/- (Rupees fifty thousand only), with two solvent sureties for the like amount each, to the satisfaction of the learned Special Judge, subject to the following conditions:

- (i) The petitioner shall not influence or intimidate witnesses or tamper with evidence;
- (ii) petitioner shall appear before the investigating officer as and when called for until filing the final report;
- (iii) During the period of bail, petitioner shall not get involved in any other offence.
- (iv) The petitioner shall surrender his passport before the Special Judge, and if he does not have a passport, he shall file an affidavit stating that fact.
- (v) The petitioner shall not enter the territorial limits of jurisdictional court except to comply with the aforementioned directions till filing of the final report.

In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court.