

(2020) 12 KL CK 0143
In the High Court Of Kerala
Case No : Bail Application No. 8184 Of 2020

Sukumaran K S

APPELLANT

Vs

State Of Kerala And Anr

RESPONDENT

Date of Decision : 09-12-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 323, 341, 342, 354, 354A(1)(i), 370, 376(2)(f)(i)(n), 376AB, 506
Protection Of Children From Sexual Offences Act, 2012 — Section 5(l), 5(m), 5(n), 9(l), 9(m), 9(n), 9(p), 10

Citation : (2020) 12 KL CK 0143

Hon'ble Judges : P.V. Kunhikrishnan, J

Bench : Single Bench

Advocate : Vijayakumari, Renjith. T.R.

Final Decision : Disposed Of

Judgement

1. This Bail Application is filed under Section 439 of Criminal Procedure Code was heard through Video Conference.

2. The petitioner is the accused in Crime No.53 of 2020 of Kenichira Police Station, Wayanad. The above case is registered against the petitioner

alleging offences punishable under Sections 341, 342, 323, 354, 354A(1)(i), 370, 376(2)(f)(i)(n), 376AB and 506 IPC and also for the offences under

Section 6 r/w. Section 5(l),(m), (n) and Section 10 r/w. Section 9(l), (m),(n) and (p) of the Protection of Children from Sexual Offences Act (for short

'POCSO Act').

3. The prosecution case is that, the accused being a close relative of the victim had committed aggravated sexual assault upon the victim, a female

child aged below 12 years from the house of the accused situated at Arimula,

Poothadi Amsom, by catching hold of her breast and vaginal area and thereafter the accused had committed rape/aggravated penetrative sexual assault from the house of the brother of the accused situated at Kuppadi.

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

5. The counsel for the petitioner submitted that eventhough this Court dismissed the bail application of the petitioner earlier, there is a change of

circumstances. The counsel submitted that the petitioner is now admitted in mental hospital. The counsel submitted that the presence of his relatives is

necessary now. Therefore, the petitioner may be released on bail on any condition. The counsel submitted that the petitioner will obey any directions

of this Court, if this Court is releasing him on bail.

6. The Public Prosecutor opposed the bail application. The Public Prosecutor submitted that all the contentions of the petitioner are considered by this

Court earlier in the earlier bail application and therefore, there is no change of circumstances.

7. After hearing both sides, I think there is no change of circumstances in this case to release the petitioner on bail. If the petitioner is suffering from

any illness, the jail authorities will do the needful to give him proper treatment. This Court already considered all the contentions of the petitioner in the

order dated 21.7.2020 in B.A.No.3904 of 2020.

8. The counsel for the petitioner submitted that no steps are taken by the trial court to start the trial in this case and therefore, on that consideration

this Court may kindly release the petitioner on bail. I think there is some force in the argument of the petitioner. The petitioner was arrested on

8.2.2020. Final report is filed on 6.5.2020. Therefore, I direct the trial court to expedite the trial and dispose the matter as expeditiously as possible. If

no steps are taken by the trial court to start the trial within three months from today, the petitioner is free to file a fresh bail application before the

lower court and the same will be considered by the lower court in accordance with law.