

(2024) 01 KL CK 0053

In the High Court Of Kerala

Case No : Bail Application No. 11039 Of 2023

XXXXXXX

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 08-01-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 354, 354(A)(2), 354(B), 363, 366, 376(3)
Protection of Children from Sexual Offences Act, 2012 — Section 5, 6

Citation : (2024) 01 KL CK 0053

Hon'ble Judges : Sophy Thomas, J

Bench : Single Bench

Advocate : Alex Abraham, Swetha R., Harikrishnan P.B., Renjit George

Final Decision : Dismissed

Judgement

Sophy Thomas, J

1. This is an application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 filed by the sole accused in Crime No.1039 of 2023 of Kalpetta Police Station, Wayanad, registered under Sections 363, 366, 354, 354(A)(2), 354(B) and 376(3) of Indian Penal Code and Section 6 r/w Section 5 of POCSO Act.
2. The prosecution case is that, on 09.08.2023 as well as on 04.09.2023, the petitioner enticed away the victim girl, aged only 16 years, from the lawful guardianship of her parents, and committed penetrative sexual assault on her.
3. Learned counsel for the petitioner would submit that the petitioner was released on bail in a similar crime registered against him, ie. crime No.1033 of 2023 of Kalpetta Police Station, and learned counsel for the petitioner produced a copy of the bail order for perusal of this Court.
4. Learned Public Prosecutor submitted that investigation is over and final report has been filed, and now it is pending before District and Sessions Court-Adhoc-I,

(Special Court for POCSO Act Cases), Kalpetta as S.C.No.528 of 2023. So the custody of the petitioner may not be needed for the purpose of investigation.

5. Considering the fact that the petitioner is in judicial custody from 04.09.2023 onwards and final report has been filed, this Court is inclined to allow this bail application.

In the result, the bail application is allowed on following terms:-

- i. The petitioner shall be released on bail on cash deposit of Rs.25,000/- (Rupees Twenty Five Thousand Only), and on executing bond for Rs.1,00,000/- (Rupees One Lakh only) with two solvent sureties each for the like sum to the satisfaction of the trial court.
- ii. The petitioner shall not enter the limits of Olavanna Panchayat, where the victim girl is now residing, and shall not influence or intimidate her or her family members, either directly or indirectly.
- iii. The petitioner shall not leave the limits of State of Kerala without getting prior sanction of the trial court.
- iv. The petitioner shall not commit any offence while on bail.
- v. In case of violation of any of these conditions, the trial court is empowered to cancel his bail, in accordance with law.