

(2022) 03 KL CK 0191

In the High Court Of Kerala

Case No : Bail Application No. 1367 Of 2022

XXXXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 23-03-2022

Acts Referred:

Indian Penal Code, 1860 — Section 354(1), 375, 376(2), 384, 506

Citation : (2022) 03 KL CK 0191

Hon'ble Judges : Gopinath P, J

Bench : Single Bench

Advocate : Mathew Devassi, A.C.Devasia, Ancy Mathew, T.R. Renjith

Final Decision : Dismissed

Judgement

Gopinath P., J

1. This is an application for regular bail.
2. The petitioner is the accused in Crime No.1158/2021 of Maradu Police Station, Ernakulam alleging commission of offences under Sections 354(1), 384, 506 & 376(2) of the Indian Penal Code.
3. The allegation against the petitioner is that the petitioner committed rape on the de facto complainant during the period from 1.1.2018 to 26.7.2021 after threatening the de facto complainant. It is also alleged that an amount of Rs.40,100/-had been forcefully taken away from the account of the de facto complainant, after threatening her.
4. The learned counsel for the petitioner submits that the petitioner is absolutely innocent in the matter. It is submitted that even if the allegations in the First Information Statement are true, the relationship between the petitioner and the de facto complainant was purely consensual and there was no element of rape as defined in Section 375 of the Indian Penal Code. It is submitted that the de facto complainant is now married and has a child out of that marriage. It is submitted

that the allegation that the petitioner had extorted an amount of Rs.40,100/- from the de facto complainant is also false. It is submitted that the petitioner has been in custody for 50 days and his continued detention is not necessary for the purposes of any investigation.

5. Heard the learned Public Prosecutor also.

6. The learned Public Prosecutor opposes the grant of bail. The circumstances of the case appearing from the record are pointed out. It is submitted that there are clear allegations in the First Information Statement indicating that the offence of rape was committed. It is submitted that, apart from the allegation of rape, there is an allegation that the petitioner obtained ATM Card of the de facto complainant and withdrew money from her account by threatening her. It is submitted that the petitioner is not entitled to be released on bail at present.

7. Having regard to the facts and circumstances of the case and considering the fact that no criminal antecedents are reported against the petitioner and also taking into account the fact that the petitioner has been in custody for 50 days and being of the opinion that his continued detention may not be necessary for the purposes of any investigation, I am of the opinion that the petitioner can be granted bail.

8. In the result, the bail application is allowed and it is directed that the petitioner shall be released on bail subject to the following conditions:

(i) Petitioner shall execute a bond for a sum of Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional court;

(ii) Petitioner shall appear before the investigating officer in Crime No. 1158/2021 of Maradu Police Station , whenever called upon to do so;

(iii) Petitioner shall not attempt to contact the de facto complainant or interfere with the investigation or to influence any witness in Crime No. 1158/2021 of Maradu Police Station ;

(iv) The petitioner shall not enter Kannur District until further orders;

(v) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the investigating officer in Crime No. 1158/2021 of Maradu Police Station may file an application before the jurisdictional Court for cancellation of bail.