

Hassainar Vs. the State of Kerala

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Court : Kerala

Decided On : Jun-26-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Hassainar

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN THURSDAY, THE 26^H DAY OF JUNE 2014 5TH ASHADHA, 1936 Bail Appl..No. 4632 of 2014 ----- CRIME NO. 309/2014 OF MANJESHWAR POLICE STATION , KASARAGOD PETITIONER/ACCUSED: ----- HASSAINAR, AGED 47 YEARS, S/O.MUHAMMED MUKRI, OPP.GOV'T PHC, MOGRALPUTHUR, MOGRALPUTHUR P.O., KASARAGOD. BY ADV. SRI.T.B.SHAJIMON RESPONDENT/COMPLAINANT: ----- STATE OF KERALA REP BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26-06-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss K. RAMAKRISHNAN, J.

----- Bail Application No.4632 of
2014 ----- Dated this the 26th day
of June, 2014

ORDER

This is an application filed by the accused in Crime No.309/2014 of Manjeshwar Police Station, Kasaragod District, for regular bail under Section 439 of the Code of Criminal Procedure.

2. The case of the prosecution was that, the petitioner as a madrasa teacher had carnal intercourse against nature against the defacto-complainant/ one of his minor student, coming to the madrasa for religious teaching and thereby he had committed the offence punishable under Section 377 of the Indian Penal Code and Section 7, 9 (F) (M) and 10 of Protection of Children from Sexual Offences Act (POCSO), 2012.

3. The counsel for the petitioner submitted that, the petitioner has not committed any offence and he is innocent of the same and the documents maintained in the B.A.No. 4632 / 2014 2 madrasa will go to show that, the alleged victim was absent during the period on which he was alleged to have been sexually assaulted by the petitioner. However, he was arrested on 06.05.2014 and he is in jail from that day onwards.

4. The application was opposed by the learned Public Prosecutor on the ground that, a eleven year old boy was sexually assaulted by the petitioner to satisfy his lust, who happened to be a madrasa teacher also. So in such cases he is not entitled to get bail and the investigation is in the preliminary stage.

5. Heard both sides and perused the records.

6. It is seen from the records that Crime No.309/2014 of Manjeshwar Police Station was registered on the basis of the statement given by the minor victim, who was a student in the madrasa in which the petitioner was working as teacher, alleging commission of the offence under Section 377 of the Indian Penal Code and Section 7, 9 B.A.No. 4632 / 2014 3 (F) (M) and 10 of Protection of Children

from Sexual Offences Act, 2012 and he was arrested on 06.05.2014 and he is in jail from that day onwards. Taking the moral aspect of the offence, being a madrasa teacher, such an attitude was not expected from him. It is true that investigation is going on and offence of such nature will have to be dealt with seriously as well, as it affects the society at large. It is not known as to how much time it will take for the investigation to complete and final report to be filed. He is arrested on 06.05.2014 and he is in jail from that day onwards. By this time, this court hopes that, he might have understood the gravity of the offence and its consequences and he will not repeat the same in future. Considering the period of pre-trial detention of the petitioner and also considering the fact that investigation has progressed much and the custody of the petitioner is not required in connection with the investigation, this court feels that bail can be granted to the petitioner with some B.A.No. 4632 / 2014 4 stringent conditions. So the application is allowed with following conditions: i. The petitioner shall be released on bail in Crime No.309/2014 of Manjeshwar police station on executing a bond for 50,000/- (Rupees Fifty thousand only) with two solvent sureties for the like sum each to the satisfaction of the concerned court in which the case is pending. ii. The petitioner shall appear before the investigating officer for the purpose of interrogation on all Mondays and Saturdays of every month between 9.00 a.m and 10.00 a.m for a period of three months and thereafter on the last Saturday of every month between the same timings, till the final report is filed. iii. Petitioner shall appear before the investigating officer for the purpose of B.A.No. 4632 / 2014 5 interrogation in connection with the above case as and when required in writing to do so, till the final report is filed. iv. The petitioner shall not enter the jurisdiction of Manjeshwar police station except for complying the condition Nos. 2 and 3 without getting prior permission from the court in which the case is pending, till the final report is filed. v. Petitioner is directed to surrender his passport before the court in which the case is pending, within one week from the date of his release and if he is not having any passport, then file an affidavit to that effect before that court, within that time. vi. The petitioner shall not intimidate or influence the witnesses. vii. The petitioner shall not leave State of Kerala without getting prior permission from B.A.No. 4632 / 2014 6 the court in which the case is pending, till the disposal of the case. With the above conditions the application is allowed. Sd/- K.

Ramakrishnan, Judge // True Copy// P.A. to Judge ss

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