

Suneesh.S.a. vs State of Kerala

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Court : Kerala

Decided On : Apr-11-2025

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Bail Appl./5294/2025

Appellant : Suneesh.S.a.

Respondent : State of Kerala

Judgement :

BAIL APPL. NO. 5294 OF 2025 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947
BAIL APPL. NO. 5294 OF 2025 CRIME NO.171/2025 OF Poojappura
Police Station, Thiruvananthapuram AGAINST THE
ORDER/JUDGMENT DATED IN CRMP NO.826 OF 2025 OF
ADDITIONAL DISTRICT COURT & SESSIONS COURT (ATROCITIES
& SEXUAL VIOLENCE AGAINST WOMEN &
CHILDREN), THIRUVANANTHAPURAM PETITIONER/S:
SUNEESH.S.A. AGED 20 YEARS PETITIONER/2ND ACCUSED.
SUNEESH S.A., AGED 20 YEARS, S/O. SURESHKUMAR,

MYLAMOODU, NEAR AYIRAVALLY THAMPURAN TEMPLE,
MULLUELAVANMOODU, ARUVIKKARA P.O.,
THIRUVANANTHAPURAM, PIN - 695564 BY ADVS. P.M.SHAHIDA
V.HARI RESPONDENT/S: STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM,
PIN - 682031 BAIL APPL. NO. 5294 OF 2025 2 OTHER PRESENT: SRI
G SUDHEER, PP THIS BAIL APPLICATION HAVING COME UP FOR
ADMISSION ON 11.04.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: BAIL APPL. NO. 5294 OF 2025 3
P.V.KUNHIKRISHNAN, J ----- B.A. No.5294 of
2025 ----- Dated this the 11th day of April, 2025

ORDER

This Bail Application is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita.

2. Petitioner is the 2nd accused in Crime

No.171/2025 of Poojappura Police Station. The above case is registered against the petitioner alleging offences punishable under Sections 4 r/w 3(a), 6 r/w 5(1) 8 r/w 7, 17 r/w 16 of Protection of Children from Sexual Offences (POCSO) Act, 2012 and Secs. 75, 64(2)(i), 64(2)(m), 137(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The brief facts of the allegation in the above case is stated as follows:- The victim is a minor girl aged 17 years and she is studying in Plus one. The juvenile in conflict BAIL APPL. NO. 5294 OF 2025 4

with the law and the victim were in a relationship and there was frequent contact between them. The allegation against the petitioner is that he booked a room at Ram Nivas Lodge near Medical college, Thiruvananthapuram using his identity card and facilitated the stay for the juvenile in conflict with the law and the victim. During their stay, it is alleged that

they engaged in sexual intercourse. Furthermore, the petitioner fully knowing that the first accused was a juvenile, made necessary arrangements for securing the room and committing penetrative sexual assault on the victim. Hence, it is alleged that the accused committed the offences.

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

5. The counsel for the petitioner submitted that

the petitioner is in custody from 04.03.2025. The counsel for the petitioner submitted that the petitioner is ready to abide any conditions, if this Court grants him bail. The counsel for the petitioner submitted that even if the prosecution case is accepted, there is no allegation that the petitioner committed BAIL APPL. NO. 5294 OF 2025 5 any rape. The Public Prosecutor opposed the bail application.

6. After hearing both sides, I think the

petitioner can be released on bail, after imposing stringent conditions. The petitioner is in custody from 04.03.2025. The main allegation is against the 1st accused, who is only a child in conflict with law (CCL). The 1st accused is aged 17 years and the victim also aged 17 years. The prosecution alleged that the petitioner, who is aged 20 years, gave his Aadhar card to obtain a room in a lodge. It is also alleged that the payment to the room is also effected by the petitioner

through his Google Pay. Considering the facts and circumstances of this case, I think the petitioner can be released on bail, after imposing stringent conditions.

7. Moreover, it is a well accepted principle that the

bail is the rule and the jail is the exception. The Hon'ble Supreme Court in Chidambaram. P v Directorate of Enforcement [2019 (16) SCALE 870], after considering all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same inasmuch as the grant of BAIL APPL. NO. 5294 OF 2025 6 bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial.

8. Moreover, in *Jalaluddin Khan v. Union of India* [2024 KHC 6431], the Hon'ble Supreme Court observed that:

21. Before we part with the Judgment, we must mention here that the Special Court and the High Court did not consider the material in the charge sheet objectively. Perhaps the focus was more on the activities of PFI, and therefore, the appellant's case could not be properly appreciated. When a case is made out for a grant of bail, the Courts should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the law. "Bail is the rule and jail is an exception" is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the

BAIL APPL. NO. 5294 OF 2025 7 rights guaranteed under Art.21 of our Constitution. (underline supplied)

9. In *Manish Sisodia v. Directorate of Enforcement* [2024 KHC 6426], also the Hon'ble Supreme Court observed that:

53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well - settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non - grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge

pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception".

10. Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, this Bail Application is allowed with the following BAIL APPL. NO. 5294 OF 2025 8 directions:

1. Petitioner shall be released

on bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

2. The petitioner shall appear

before the Investigating Officer for interrogation as and when required. The petitioner shall co-operate with the investigation and shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the

facts of the case so as to dissuade him/her

from disclosing such facts to the Court or to any police officer.

3. Petitioner shall not leave India without permission of the jurisdictional Court.
BAIL APPL. NO. 5294 OF 2025 9

4. Petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

5. The observations and

findings in this order is only for the purpose of deciding this bail application. The principle laid down by this Court in Anzar Azeez v. State of Kerala [2025 SCC OnLine KER 1260] is applicable in this case also.

6. If any of the above

conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court. The

prosecution and the victim are at liberty to approach the jurisdictional court to cancel the bail, if there is any violation of the above BAIL APPL. NO. 5294 OF 2025 10 conditions. Sd/- P.V.KUNHIKRISHNAN JUDGE SKS BAIL APPL. NO. 5294 OF 2025 11 APPENDIX OF BAIL APPL. 5294/2025 PETITIONER ANNEXURES Annexure 1 TRUE COPY OF THE ORDER PASSED BY THE ADDITIONAL SESSIONS JUDGE DATED 02.04.2025 IN CRL.MP NO.826/2025 IN CRIME NO. 171/2025 OF POOJAPPURA POLICE STATION

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