

Vaishak, vs State of Kerala,

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Court : Kerala

Decided On : Feb-01-2024

Judge : Honourable Mrs. Justice Sophy Thomas

Appeal No. : Bail Appl./9986/2023

Appellant : Vaishak,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SOPHY THOMAS
THURSDAY, THE 1ST DAY OF FEBRUARY 2024 / 12TH MAGHA, 1945
BAIL APPL. NO. 9986 OF 2023 CRIME NO.807/2023 OF Fort Police
Station, Thiruvananthapuram PETITIONER/S: XXXXXXXXXXXX
XXXXXXXXXXXX XXXXXXXXXXXX BY ADV AMJATH A.R RESPONDENT/S:
STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - OTHER PRESENT: SR.PP-SRI.VIPIN
NARAYANAN THIS BAIL APPLICATION HAVING COME UP FOR
ADMISSION ON 01.02.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: ..2..

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ORDER

Dated this the 01st day of February, 2024 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.807 of 2023 of Fort Police Station, Thiruvananthapuram, registered under Sections 376, 376(2)(n), 376(3), 376(2)(f) of IPC and Section 3(b) r/w 4, 5(l)(n)(p) r/w 6,7 revision/w 8, 9(l)(p) r/w 10 of the Protection of Children from Sexual Offences Act, 2012 and Section 75 of the JJ Act.

2. The prosecution allegation is that, in the month of May

2023, the petitioner, who is the step father of the minor victim aged only 13, while watching television, committed penetrative sexual assault on her, and repeated similar acts on various other ..3.. occasions also.

3. Heard learned counsel for the petitioner and learned Public Prosecutor. Learned Public Prosecutor opposed the bail application.

4. The learned counsel for the petitioner would submit that,

the petitioner is in judicial custody from 24.06.2023 onwards, and now the case is pending before the Additional District and Sessions Court for the trial of cases relating to Atrocities & Sexual Violence against Women and Children, Thiruvananthapuram as SC No. 807 of 2023.

5. On direction, to get a report as to the present stage of S.C.

No. 807 of 2023, learned trial Judge, as per letter dated 12.01.2024 reported that the FSL report is not yet obtained, and the case is posted for FSL report on 16.01.2024.

6. Learned counsel for the petitioner would submit that, if FSL report is further delayed, the trial could not be proceeded with and so, he will have to languish in jail for long, adversely ..4.. affecting his life and liberty.

7. On instructions, learned Public prosecutor submitted that

the victim girl, and her mother are residing within the limits of Fort police station, Thiruvananthapuram, and the petitioner is having another crime registered against him in Vanchiyur police station under Sections 324 and 308 of IPC.

8. Considering the fact that the petitioner is in judicial

custody from 24.06.2023 onwards, and the trial could not begin for want of FSL report, this Court is inclined to allow this application, on stringent conditions ensuring protection of the victim girl and her mother.

9. In the result, the bail application is allowed on the

following terms:- i. The petitioner shall be released on bail on executing bond for Rs.50,000/- (Rupees fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the trial ..5..

court. ii. The petitioner shall not enter the limits of Fort police station, Thiruvananthapuram, within the jurisdiction of which the victim girl and her mother are residing till the trial in S.C.No. 807 of 2023 is over, except for the purpose of appearing before the police station or before the court, as the case may be. iii. The petitioner shall not contact, influence or intimidate the victim or her mother and shall not cause any kind of threat or harassment to them either directly or indirectly, and shall not tamper with the evidence. iv. Petitioner shall not leave the limits of Kerala without prior permission of the trial court, and he shall surrender his passport before the trial court, at the time of executing the bond, and if he is not ..6..

having a passport, he has to file an affidavit to that effect before the trial court. v. The petitioner shall not commit any offence while on bail. vi. In case of violation of

any of these conditions, the trial court is empowered to cancel his bail, in accordance with law. Sd/- SOPHY THOMAS JUDGE RMV

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