

Aboobacker vs State of Kerala

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Court : Kerala

Decided On : Apr-30-2024

Judge : Honourable Mr.Justice P.G. Ajithkumar

Appeal No. : Bail Appl./3600/2024

Appellant : Aboobacker

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR
TUESDAY, THE 30TH DAY OF APRIL 2024 / 10TH VAISAKHA, 1946
BAIL APPL. NO. 3600 OF 2024 CRIME NO.456/2024 OF KONDOTTY
POLICE STATION, MALAPPURAM AGAINST THE ORDER DATED
18.04.2024 IN CRMC NO.472 OF 2024 OF DISTRICT COURT &
SESSIONS COURT, MANJERI PETITIONER: XXXXXXXXXXXX
XXXXXXXXXXXX BY ADV K.RAKESH RESPONDENTS: 1
STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI, PIN - 682 031. 2
THE STATION HOUSE OFFICER KONDOTTY POLICE STATION,
MALAPPURAM DISTRICT, PIN - 673 638. BY BINDHU O V, PUBLIC

PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR
ADMISSION ON 30.04.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

P.G. AJITHKUMAR, J.

----- Dated
this the 30th day of April, 2024

ORDER

This is an application for bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. The petitioner is the sole accused in Crime No.456 of

2024 of Kondotty Police Station. He allegedly had committed the offences punishable under Sections 342, 354(l)(i), 450, 376(2)(f) and 506 of the Indian Penal Code.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. The prosecution allegation is that the petitioner herein is a close relative of the defacto complainant. He had in the

month of October 2022 forcefully kissed the defacto complainant from her bed room of her house. Subsequently, on 24.11.2023 at about 05:00 p.m., he had trespassed into the defacto complainants house and raped her from the dining hall of the house. He threatened her against informing about it to others also.

5. The petitioner would contend that He did not involve in

the alleged crime and without any material or evidenhreatenece, he has been implicated in the crime. He is innocent. The investigation in the matter has been progressed considerably and there is no reason or justification for his further detention.

6. The learned Public Prosecutor would submit that

considering the seriousness of the offence and the possibility of interfering with the investigation by the petitioner in the event of his release on bail, this petition deserve only to be dismissed.

7. The Session Court, Manjeri dismissed the application

filed by the petitioner. It is noticed in the said order that the petitioner filed O.S No.41 of 2024 against the father and brother of the defacto complainant and obtained an order of attachment. Though, the alleged incidents had occurred prior to institution of the said suit, the crime was initiated only after institution of the suit. It shows that other factors also instigated, the defacto complainant initiated the prosecution. The petitioner was arrested on 25.03.2024 and has been custody since the said date. It is seen that investigation has

been progressed to considerable extent and further detention of the petitioner is not necessary. In the circumstance, I am of the view that the petitioner is entitled to be released on bail. In the result, the bail application is allowed and the petitioner is granted bail on his executing a bond for Rs.50,000/- (Rupees fifty thousand only), with two solvent sureties for the like amount each, to the satisfaction of the learned Magistrate, subject to the following conditions:

(i) He shall not influence or intimidate witnesses or tamper with evidence;

(ii) He shall appear before the investigating officer as and when called for; and

(iii) During the bail period, He shall not get

involved in any offence. In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court.

Sd/- P.G. AJITHKUMAR, JUDGE AMR

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