

Murshid vs State of Kerala

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Court : Kerala Orders

Decided On : Jun-04-2024

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : Bail Appl./4187/2024

Appellant : Murshid

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN TUESDAY, THE 4TH DAY OF JUNE 2024 / 14TH JYASHTA, 1946 BAIL APPL. NO. 4187 OF 2024 CRIME NO.296/2024 OF Nedupuzha Police Station, Thrissur PETITIONER/S: MURSHID AGED 24 YEARS S/O MOIDUNNI,VALIYAKATH,KURUNJIYUR,CHAVAKKAD TALUK, THRISSUR DISTRICT, PIN - 680506 BY ADV RAJIT RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 OTHER PRESENT: SR.PP.V.TEKCHAND THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04.06.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

ORDER

Dated this the 4th day of June, 2024 Petitioner is the accused in Crime No.296 of 2024 of Nedupuzha Police Station registered for offences punishable under Sections 323 and 376 of IPC and Section 66(E) of the Information Technology Act. The crime is registered on the allegation that the petitioner had committed rape on the survivor and had taken her nude photographs and forwarded it to the survivor's fiance and others.

2. Learned Counsel for the petitioner would submit that going by the survivor's version, there is no rape and the parties had indulged in consensual sex and therefore, the offence under Section 376 is not attracted. It is further submitted that the offence under Section 66(E) of the Information Technology Act is bailable and -3- hence, there is no impediment in granting anticipatory bail to the petitioner.

3. Learned Public Prosecutor stoutly opposed the prayer for pre-arrest bail and submitted that apart from the question whether the offence under Section 376 is committed, the

manner in which the petitioner had conducted himself, is of importance. Reference is made to the Section 164 statement of the survivor to point out that, after being in a relationship for a long period, the parties fell apart and thereafter, the explicit photographs of the survivor were used by the petitioner to threaten her and the images were sent to the fiance of the survivor also. There is further allegation that, thereafter, on a particular day, the survivor was taken to a hotel and physically abused and raped.

4. Having heard the learned Counsel on either side and having gone through the statement -4- of the survivor, I find that, the question whether the parties had indulged in consensual sex earlier apart, the subsequent conduct of the petitioner disentitles him from being granted anticipatory bail. For the aforementioned reasons, the bail application is dismissed. Sd/- V.G.ARUN JUDGE Scl/