

XXXX vs State of Kerala

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Court : Kerala Orders

Decided On : Feb-27-2023

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Bail Appl./1063/2023

Appellant : XXXX

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
MONDAY, THE 27TH DAY OF FEBRUARY 2023 / 8TH PHALGUNA,
1944 BAIL APPL. NO. 1063 OF 2023 CRIME NO.619/2022 OF ALUVA
WEST POLICE STATION, ERNAKULAM PETITIONER/ACCUSED:
XXXX AGED 45 YEARS XXXX, PIN - 683101 BY ADV P.A.MUJEEB
RESPONDENT: STATE OF KERALA REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN -
682031 BY ADV SRI.M.P.PRASANTH - PP THIS BAIL APPLICATION
HAVING COME UP FOR ADMISSION ON 27.02.2023, Bail
Appl..1063/2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: .. 2 ..

B.A. No.1063 of 2023 Dated this the 27th day of February, 2023

ORDER

This is an application for regular bail submitted by the

petitioner who is the accused in crime No.619/2022 of Aluva West Police Station, Ernakulam, for the offences punishable under Sections 354, 354 A (1) (i), 354 A (1) (ii), 354 C, 506 of the IPC and Sections 67 B, 66 E of the Information Technology Act and Sections 10, 9(l), 9 (n), 12, 11 (i), 11 (ii), 11 (v) of the Protection of Children from Sexual Offences Act, 2012.

2. The prosecution case is that on 19.09.2021 at about

9.00 pm, the accused threatened his 13 year old daughter through a WhatsApp video call to remove her dress and said he had recorded the same. Then he threatened the victim to concede to his lust and threatened to cause death if it is disclosed to anybody. On several days till 15.11.2020 caused the victim massage his body and touched her breasts and other private parts. The petitioner was arrested on 01.12.2022 for the above crime and has been in judicial custody since then.

.. 3 ..

3. The learned counsel for the petitioner submitted that the petitioner is innocent of all the allegations. It is submitted that he is prepared to abide by any of the conditions imposed by this Court.

4. On the other hand, the learned Public Prosecutor

opposed the aforesaid application. According to the learned Public Prosecutor, there are specific allegations of serious sexual assaults committed by the petitioner upon his own daughter. The copies of the FIS and other records relating to the same were made available for perusal.

5. I have gone through the records and heard the contentions raised from both sides. As per the statements of the victim, specific descriptions of sexual assaults are seen.

6. Considering all the relevant aspects, including the

gravity of the offences, the relationship between the parties and the age of the victim, I am of the view that the release of the petitioner at this stage may not be proper. The investigation in this case has indeed been completed, and the final report has been filed. However, as mentioned above, since the allegations are against the father of the victim, the chances of influence being exerted upon the victim as well as other witnesses are

.. 4 .. highly probable. The release of the petitioner at this juncture is likely to affect the smooth trial of the case. In such circumstances, I have no reason to release the petitioner on bail. In the result, this bail application is dismissed. However, It is ordered that every endeavour shall be taken by the Special Court to expedite the trial and complete the same as expeditiously as possible. Sd/- ZIYAD RAHMAN A.A, JUDGE ded/27.02.2023

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