

Peter vs State of Kerala of Kerala Represented by the Public Prosecutor

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Court : Kerala

Decided On : Mar-13-2023

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

Appeal No. : Bail Appl./1742/2023

Appellant : PETER

Respondent : State of Kerala of Kerala Represented by the Public Prosecutor

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
MONDAY, THE 13TH DAY OF MARCH 2023 / 22ND PHALGUNA, 1944
BAIL APPL. NO. 1742 OF 2023 [CRIME NO.70 OF 2023 OF
PALLITHOTTAM POLICE STATION, KOLLAM]
PETITIONER/ACCUSED NO.1: PETER, AGED 48 YEARS,
S/O.BERNARD QSS COLONY, VELICHAM NAGAR-190,
PALLITHOTTAM CHERRY, PALLITHOTTAM P.O, KOLLAM (DIST), PIN
- 691 006. BY ADV.M.RAJESH RESPONDENTS/COMPLAINANTS: 1
STATE OF KERALA, REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682
031. 2 THE SUB INSPECTOR OF POLICE, PALLITHOTTAM POLICE

STATION, PALLITHOTTAM P.O., KOLLAM (DIST), PIN - 691 006. BY C.S.HRITHWIK, PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13.03.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.1742/23 2

ORDER

This is an application filed u/s 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioner is the accused in Crime No.70 of

2023 of Pallithottam Police Station, which was registered for the offences punishable under Sections 354(A)(1) read with Section 34 of IPC, Sections 7 and 8 of the POCSO Act and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

3. The prosecution case is that on 14.08.2022 at

17:00 hours, the petitioner came inside the bedroom of the house of the minor victim while she was alone at home, grabbed her from behind, and pressed her breast with sexual intent, thereby committed the offence. It is also alleged that the petitioner was having an illicit relationship with the mother of the victim. Even though the victim informed the mother about this incident, she did not respond to the same and instead, she justified the petitioner's act. Therefore, the mother of the victim was also implicated as 2nd accused. The

B.A.No.1742/23 3 petitioner was arrested in connection with the investigation of the case on 28.01.2023, and since then, he is under judicial custody.

4. Heard, Sri. M. Rajesh, learned counsel for the petitioner and Sri.C.S.Hritwhik, learned Public Prosecutor for the State.

5. The learned counsel for the petitioner submits that

the petitioner is innocent of all the allegations. According to him, the complaint was submitted due to certain disputes between the parties. He further submits that he

is prepared to abide by any conditions, and since he has been in custody for more than 40 days, his further incarceration is not at all necessary.

6. On the other hand, the learned Public Prosecutor

would oppose the aforesaid contention by highlighting that the investigation is going on. Statement of the victim would indicate explicit acts on the part of the petitioner which attract the offences alleged. Therefore, dismissal of the application is sought by the learned Public Prosecutor. B.A.No.1742/23 4

7. I have gone through the records and heard the

contentions raised from both sides. It is true that there are specific allegations in the statement of the victim given before the police and also in the statement under Section 164

Cr.P.C.

However, the fact remains that the petitioner hasb

circumstances, I do not find any necessity to continue the incarceration of the petitioner. He can be released on bail by imposing appropriate conditions to ensure that the petitioner is not contacting the victim or any other witnesses. In the result, this bail application is allowed with the following conditions:

(i) The petitioner shall be released on bail on executing a bond for Rs. 1,00,000/- (Rupees One lakh only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

(ii) The petitioner shall fully cooperate with the investigation.

(iii) The petitioner shall appear before the investigating officer between 10.00 a.m and 11.00 a.m every Friday until the filing of the final report. B.A.No.1742/23 5

(iv) The petitioner shall also appear before the investigating officer as and when required by him.

(v) The petitioner shall not commit any offence of similar nature while on bail.

(vi) The petitioner shall not make any attempt to

contact any of the prosecution witnesses, directly or through any other person, or in any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

(vii) The petitioner shall not leave the State of Kerala without the permission of the trial Court. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation of bail, if any, and pass appropriate orders in accordance with the law.

Sd/- ZIYAD RAHMAN A.A. JUDGE DG/13.3.23 B.A.No.1742/23 6 APPENDIX OF BAIL APPL. 1742/2023 PETITIONER ANNEXURES Annexure1 THE TRUE COPY OF THE ORDERS OF THE ADDL SESSIONS JUDGE-I, KOLLAM DATED 23.02.2023 IN CRL MC NO. 367/2023

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