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Rajesh vs State of Kerala

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Court : Kerala Orders

Decided On : Jun-02-2023

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

Appeal No. : Bail Appl./2506/2023

Appellant : Rajesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. FRIDAY, THE 2ND DAY OF JUNE 2023 / 12TH JYAISHTA, 1945 BAIL APPL. NO. 2506 OF 2023 CRIME NO.27/2023 OF VALAYAM POLICE STATION PETITIONER/ACCUSED: RAJESH AGED 39 YEARS S/O KANNAN, VATTAPARAMBIL HOUSE, NIDUMPARANBA P O, VATAKARA TALUK, KOZHIKODE DISTRICT -, PIN - BY ADVS. S.RAJEEV V.VINAY M.S.ANEER SARATH K.P. PRERITH PHILIP JOSEPH ANILKUMAR C.R. RESPONDENT/STATE: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 STATION HOUSE OFFICER VALAYAM POLICE STATION (CRIME NO 27/2023 OF VALAYAM POLICE

STATION -, PIN - 673517 ADV C S HRITHWIK -SR PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :2 :

ORDER

Dated this the 2nd day of June, 2023 The petitioner is the accused in crime No.27/2023 of Valayam Police Station. The offences alleged against the petitioner are under Sections 450, 342, 376(1) and 506(2) of the Indian Penal Code.

2. The allegation against the petitioner is that, on

30.10.2022, the accused committed rape of the defacto complainant. The crime was registered based on the complaint of the victim on 26.01.2023. This application of anticipatory bail is submitted by the petitioner as he apprehends arrest in connection with the investigation of the said case.

3. Heard Sri. S. Rajeev, the learned counsel appearing for the petitioner and Sri. C.S. Hritwik, the learned Senior Public Prosecutor for the State.

4. The learned counsel for the petitioner submits that the petitioner is innocent of all the allegations. According to him, the defacto complainant is a mature lady and the sexual intercourse :3 : was on the basis of mutual consent. Both of them had

acquaintance for a long time. The learned counsel for the petitioner further points out that the petitioner is ready and willing to abide by any conditions that may be imposed by this Court and shall cooperate with the investigation.

5. On the other hand, the learned Public Prosecutor

would oppose the aforesaid application by pointing out that there are specific allegations of forceful sexual assault committed by the petitioner. The statement of the victim made before the Police and the statement under Section 164 Cr.P.C. were also relied on by the learned Public Prosecutor to highlight the forceful sexual

intercourse. It is pointed out that the matter is under investigation, and therefore if the petitioner is released on bail, it is likely to cause prejudice to the investigation.

6. I have gone through the records. On going through

the contents of the First Information Statement and the statement of the victim under Section 164 Cr.P.C, it can be seen that there is a specific allegation of forceful sexual assault. Even though the learned counsel for the petitioner points out that it was on the basis of mutual consent and certain photographs were relied on

:4 : to substantiate the same, at this juncture, I am not inclined to accept the said contention. From the materials now available on record, there is prima facie case against the petitioner and the allegations are very serious.

In such circumstances, I do not find this as a fit case in which anticipatory bail can be to the petitioner. In the result, this application is dismissed. Sd/- ZIYAD RAHMAN A.A. JUDGE ncd :5 : APPENDIX OF BAIL APPL. 2506/2023 PETITIONER ANNEXURES Annexure I A COPY OF THE ORDER DATED 15.10.2023 IN CRL MC NO 321/2023 ANNEXURE-I A TRUE COPY OF THE PHOTOS OF THE PETITIONER AND THE DEFACTO COMPLAINANT

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