

Shamnad, vs State of Kerala,

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Court : Kerala Orders

Decided On : Apr-13-2023

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./2609/2023

Appellant : Shamnad,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
THURSDAY, THE 13TH DAY OF APRIL 2023 / 23RD CHAITHRA, 1945
BAIL APPL. NO. 2609 OF 2023 Crime No. 439/2022 of Anchuthengu
Police Station, Thiruvananthapuram PETITIONER/ACCUSED:
SHAMNAD, AGED 36 YEARS S/O. SALAHUDEEN, KOOTIL HOUSE,
NEDUMGANDA DESOM, ANCHUTHENGU VILLAGE, ANCHUTHENGU
P.O., THIRUVANANTHAPURAM DISTRICT., PIN - 695309 BY ADV
JOHN K.GEORGE RESPONDENT/COMPLAINANT: STATE OF
KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM, PIN - 682031 ADV M P PRASANTH -PP
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON

13.04.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

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

2. The applicant is the accused in Crime No. 439/2022 of

Anchuthengu Police Station, Thiruvananthapuram. The offences alleged are punishable under Sections 376, 376(1), 376(2)(n), 376(3a), 366A, 506(i) of Indian Penal Code and Sections 3(a) read with 4(2), 4(3), 5(1) read with 6, 11(iii) read with 12 of the POCSO Act.

3. The prosecution case, in short, is that, the applicant committed rape on the victim repeatedly in the year 2021 as well as in 2022, while she was aged 12 and 13 years.

4. I have heard Sri. John K George, the learned counsel for the applicant and Sri. M.P Prasanth, the learned Public Prosecutor. Perused the case diary.

5. The learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the present case. The counsel further submitted that no materials are

on record to connect the applicant with the alleged crime; hence, he is entitled to get bail. On the other hand, the learned Public Prosecutor submitted that the alleged incident occurred as a part of the intentional criminal acts of the applicant, and he is not entitled to bail at this stage.

6. The applicant was remanded to judicial custody on

17.10.2022. A perusal of the case diary would reveal that the accusation against the applicant is very serious, and it prima facie shows a premeditated criminal act on his part. The applicant brutally raped the victim when she was a minor, repeatedly. Considering the nature of the crime, how the petitioner is alleged to

have complicity in it, and the facts and circumstances mentioned above, I am of the view that the applicant cannot be released on bail at this stage. The bail application, accordingly, is dismissed. Sd/- DR. KAUSER EDAPPAGATH JUDGE
rpk

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