

Vishnu. a. vs State of Kerala,

Vishnu. a. vs State of Kerala,

SooperKanoon Citation : sooperkanoon.com/1356248

Court : Kerala Orders

Decided On : May-22-2023

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

Appeal No. : Bail Appl./3118/2023

Appellant : Vishnu. a.

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
MONDAY, THE 22ND DAY OF MAY 2023 / 1ST JYAISHTA, 1945 BAIL
APPL. NO. 3118 OF 2023 CRIME NO.245/2023 OF Aranmula Police
Station, Pathanamthitta PETITIONER/ACCUSED: VISHNU. A. AGED 29
YEARS S/O. ANIL, SITHARA BHAVANAM, PUNNAKKAD P.O.,
PATHANAMTHITTA, PIN - 689652 BY ADVS. ANISH ANTONY
ANATHAZHATH VIJEESH K.S. SAKKIYA PARVIN SALEEM
RESPONDENT/S: 1 STATE OF KERALA, REPRESENTED BY THE
PUBLIC, PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM,
PIN - 682031 2 THE STATION HOUSE OFFICER, AARANMULA
POLICE STATION, PATHANAMTHITTA, PIN - 689533 3 XXXXXXXXXXXX

AGED 14 XXXXXXXXXXXX XXXXXXXXXXXX THIS BAIL APPLICATION
HAVING COME UP FOR ADMISSION ON 22.05.2023, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application filed under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioner is the accused in Crime No. 245/2023 of

Aranmula Police Station. The offences alleged against the petitioner are punishable under Sections 354 B, 376(3) of the Indian Penal Code and also under Sections 7, 8, 9(1)(m), 4(2), 3(a), 6 read with 5(l)(m) of POCSO Act.

3. The prosecution case is that, during a day in April 2020,

the petitioner had penetrative sexual intercourse with the victim/3rd respondent while she was studying in 6 th standard. It is also alleged that the petitioner threatened her by stating that her videos would be published and therefore, she could not report the matter to the police earlier. Later, during a counselling, the matter was revealed, and the crime was registered based on the same in

the year 2023. As part of the investigation, the petitioner was arrested on 17.03.2023, and since then, he has been under judicial detention. This application for regular bail is submitted by him in such circumstances.

4. Heard, Sri. Anish Antony Anathazhath, the learned counsel appearing for the petitioner and Sri.C.S Hrithwik, the learned Public Prosecutor, appearing for the State.

5. The contention put forward by the learned counsel for the petitioner is that there are certain civil disputes between the petitioner's family as well as the family of the defacto

complainant. He also highlights the delay of three years in reporting the matter to the police. Besides the same, it is also contended by him that the petitioner had

purchased the building and the property wherein the incident had allegedly occurred only at a later point of time and as on the date of occurrence mentioned in the FIR, he was not in possession of the same. Apart from the above, it is also pointed out that the incident allegedly occurred at a time when the lockdown owing to Covid-19 was imposed, and therefore the incident as alleged is highly improbable.

6. On the other hand, the learned Public Prosecutor would

oppose the aforesaid application. It is pointed out that there are specific allegations against the petitioner, and such allegations are clearly stated in the FIS given by the victim and also in the statement of the victim recorded under Section 164 of Cr.P.C. It is also pointed out that the investigation is in progress and very soon, the final report would be filed against the petitioner. The petitioner is a neighbour, and therefore, chances of intimidating/influencing the witnesses cannot be ruled out.

7. I have gone through the records which include the statement given by the victim before the police and the statement under Section 164 of Cr.P.C. In both the said statements, the acts

committed by the petitioner have been clearly mentioned. It is true that there is some delay in reporting the matter to the police. However, considering the age of the victim at the relevant time and also the nature of the allegations, the delay by itself cannot be a ground to assume that the allegations raised against the

petitioner are false. Even though certain civil disputes between the parties are also highlighted, that is also a matter of investigation which is now in progress. The contention raised by the learned counsel for the petitioner of the probability with respect to the place of occurrence is also not a relevant factor at this point of time, taking note of the specific nature of the

statement given by the victim. In such circumstances, I do not find this as a fit case in which bail can be granted at this juncture. Accordingly, this application is dismissed. Sd/- ZIYAD RAHMAN A.A JUDGE rpk APPENDIX OF BAIL APPL.

3118/2023 Annexure-A1 A TRUE COPY OF THE REMAND REPORT DATED
18.03.2023 Annexure-A2 A TRUE COPY OF SALE DEED Annexure-A3 A TRUE
COPY OF THE SALE DEED BY PETITIONERS SISTER

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com