

Rafeek P.a vs State of Kerala

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Court : Kerala Orders

Decided On : May-31-2023

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

Appeal No. : Bail Appl./3631/2023

Appellant : Rafeek P.a

Respondent : State of Kerala

Judgement :

B.A.No.3631/23 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
WEDNESDAY, THE 31ST DAY OF MAY 2023 / 10TH JYAISHTA, 1945
BAIL APPL. NO. 3631 OF 2023 PETITIONER/ACCUSED:
XXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX BY ADV M.J.POLLY
RESPONDENT/STATE: STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031. BY
SMT. SEETHA S, SR.PUBLIC PROSECUTOR THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 31.05.2023,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

B.A.No.3631/23 2

ORDER

The petitioner is the accused in Crime No.328 of 2023 of

Perumbadappu Police Station. The offences alleged against the petitioner are under Section 354 A of IPC and Sections 7 and 8 of the POCSO Act. The prosecution case is that, on 07.04.2023 at about 3 PM, the accused, with sexual intention, touched the breast of the victim girl, aged 12 years and pressed the leg on the body of the child and thereby committed the offence. The crime was registered based on the information furnished by the victim and this application is submitted by the petitioner as he apprehends arrest in connection with the investigation of the crime.

2. Heard Sri.Polly M.J, learned counsel for the petitioner and Smt.Seetha S., learned Senior Public Prosecutor for the State.

3. The learned counsel for the petitioner submits that the

petitioner is innocent of all the allegations. According to him, the petitioner was falsely implicated in the present case because of certain rivalry between the family of the victim and the petitioner. A delay of ten days in reporting the matter is also highlighted as one of the grounds. The learned counsel for the petitioner further

B.A.No.3631/23 3 submits that he is prepared to abide by any condition that may be imposed by this Court and shall cooperate with the investigation.

4. The learned Public Prosecutor would oppose the aforesaid prayer. Copies of the FIS of the victim and other relevant records were made available for perusal. By placing reliance upon the same, it was contended by the learned Public

Prosecutor that there are specific allegations against the petitioner. The petitioner is involved in several other cases, and the details are also furnished. Dismissal of this bail application was sought in such circumstances.

5. I have gone through the records. From the statement

of the victim, a girl aged 12 years, a clear description of the assaults committed upon her has been mentioned. As regards the delay of 10 days also, a clear explanation has been given in the FIS, as it is mentioned that, after the incident, the victim was taken to her house, and only then she revealed the matter to her mother. It is to be noted in this regard that the incident, which is the subject matter of this case, occurred when the victim was

staying with her grandfather in his house. Taking note of the entire aspects of the case, I am of the view that the delay of ten B.A.No.3631/23 4 days in reporting a case of this nature cannot be given much significance. Another aspect to be noticed is that the petitioner has criminal antecedents and is involved in ten cases. Details of which are given below. 1. Vadakkekkad Police Station Crime No.17/2003 U/s.143, 147, 148, 324, 308 IPC.

2. Vadakkekkad Police Station Crime No.204/2005 U/s.411 IPC.

3. Vadakkekkad Police Station Crime No.205/2005 U/s.143, 147, 225, 332 r/w 149 IPC.

4. Vadakkekkad Police Station Crime No.98/2007 U/s.143, 147, 148, 341,323, 324 r/w 149 IPC.

5. Vadakkekkad Police Station Crime No.634/2004 U/ s.110(e) Cr.P.C.

6. Vadakkekkad Police Station Crime No.30/2007 U/s.324 IPC.

7. Vadakkekkad Police Station Crime No.247/2007 U/ s.107 Cr.P.C.

8. Vadakkekkad Police Station Crime No.261/2005 U/s.406, 420 IPC.

9. Vadakkekkad Police Station Crime No.748/2022 U/s.151 Cr.P.C.

10. Vadakkekkad Police Station Crime No.408/2015 U/s.420 r/w 34 IPC.

6. In such circumstances, considering the specific nature of the allegations and also the criminal antecedents of the B.A.No.3631/23 5 petitioner, I am of the view that granting anticipatory bail to the petitioner may not be justifiable at this stage.

In the result, I do not find any merit in this application and accordingly, it is dismissed. Sd/- ZIYAD RAHMAN A.A. JUDGE DG/1.6.23

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