

Ajeesh Kumar vs State of Kerala

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Court : Kerala

Decided On : Sep-11-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./5649/2023

Appellant : Ajeesh Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
MONDAY, THE 11TH DAY OF SEPTEMBER 2023 / 20TH BHADRA,
1945 CRIME NO.881 OF 2022 OF KANNANALLOOR POLICE
STATION, KOLLAM DISTRICT PENDING AS S.C.NO.2043/2022 ON
THE FILES OF IIIRD ADDITIONAL SESSIONS COURT, KOLLAM

PETITIONER/ACCUSED: XXXXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX
BY ADVS. RISHAB S. RIJO DOMY ARAVIND ANIL PAREETH
LUTHUFIN K.B. ARUN PRASAD LIGIN FELIX AMAL MENON
THIRUNELLIL AKHIL ALEXIOS KANAKATTU
RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031.

SRI. NOUSHAD K A (SR PP) THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application for regular bail.

2. The petitioner is the accused in Crime No.881 of 2022 of

Kannanalloor Police Station, Kollam District, alleging commission of offences under Sections 450, 376, 376(2)(I) and 506(1) of the Indian Penal Code, now pending as S.C.No.2043 of 2022 on the files of the IIIrd Additional Sessions Court, Kollam. The allegation against the petitioner is that the petitioner, who is the neighbour of the victim (aged about 20 years) criminally trespassed into her house and committed rape on her. It is alleged that the victim is suffering from mental retardation to the extent of 40%.

3. The learned counsel appearing for the petitioner would

submit that the allegations against the petitioner are totally baseless. It is submitted that the petitioner and the victim were maintaining a close relationship for sometime and the relationship between them was purely consensual. It is submitted that the complaint was filed on the compulsion of the mother and brother of the victim. It is submitted that the petitioner has been in custody from 28.08.2022 and a final report has already been filed in the matter and therefore, further detention of the petitioner is not necessary in the facts and circumstances of the case.

4. The learned Public Prosecutor vehemently opposes the

grant of bail. He points out that the petitioner and the victim are admittedly neighbours. It is pointed out that going by the report of the medical board, the victim is suffering from 40% mental retardation. It is submitted that the release of the petitioner on bail may not be conducive as there is every chance of the victim being influenced or intimidated if the petitioner is granted bail.

5. Having heard the learned counsel appearing for the

petitioner and the learned Public Prosecutor and considering the fact that the petitioner has been custody from 28.08.2022, I am of the opinion that the petitioner can be granted bail subject to conditions. The investigation has been completed and a final report has already been filed. The completion of the trial may take some time. The apprehension of the learned Public Prosecutor that the petitioner may influence or intimidate the victim can be taken care of by imposing a condition that the petitioner shall not enter Kollam District until further orders.

6. In the result, this bail application is allowed and it is directed that the petitioner shall be released on bail subject to the following conditions:-

(1) The petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court;

(2) The petitioner shall report before the Investigating officer in Crime No.881 of 2022 of Kannanalloor Police Station, Kollam District as and when summoned to do so;

(3) The petitioner shall not attempt to interfere with the investigation, influence or intimidate the victim or any witness in S.C.No.2043 of 2022 on the files of the IIIrd Additional Sessions Court, Kollam;

(4) The petitioner shall not enter Kollam District except for the purpose of appearance in SC.No.2043 of 2022 on the files of the IIIrd Additional Sessions Court, Kollam;

(5) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the investigating officer in Crime No.881 of 2022 of Kannanalloor Police Station, Kollam District, may file an application before the Jurisdictional Court for cancellation of bail. Sd/- GOPINATH P. JUDGE DK