

Louis Peter vs State of Kerala

Louis Peter vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1375421

Court : Kerala

Decided On : Aug-01-2023

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

Appeal No. : Bail Appl./5968/2023

Appellant : Louis Peter

Respondent : State of Kerala

Judgement :

B.A.No.5968/23 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
TUESDAY, THE 1ST DAY OF AUGUST 2023 / 10TH SRAVANA, 1945
BAIL APPL. NO. 5968 OF 2023 AGAINST THE
ORDER/JUDGMENTCRMP 307/2023 OF ADDITIONAL DISTRICT
COURT & SESSIONS COURT (VIOLENCE AGAINST WOMEN &
CHILDREN) PETITIONER/ACCUSED: XXXXXXXXXXXX XXXXXXXXXXXX
XXXXXXXXXXXX BY ADVS. M.J.SANTHOSH ANTONY PAUL
RESPONDENT/COMPLAINANT: STATE OF KERALA, REPRESENTED
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031.
SMT.SEETHA.S-SR.PUBLIC PROSECUTOR THIS BAIL APPLICATION

HAVING COME UP FOR ADMISSION ON 01.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.5968/23 2

ORDER

This is an application filed u/s 438 of the Code of Criminal Procedure seeking pre-arrest bail.

2. The petitioner is the accused in Crime No.1100 of

2023 of Thoppumpady Police Station, registered for the offences punishable under Sections 363, 376(2)(n), 323, 447, 506 of IPC and Section 66E of Information Technology Act and Section 4(1) r/w 3(a), 3(d) and 6(1) r/w 5(1), 8 r/w Section 7 of POCSO Act.

3. The prosecution case is that, on 04.05.2023 at about 8.15 AM, the petitioner took the victim on his bike, took her into the bedroom of his house at Thoppumpady, and committed

penetrative sexual assault. It is also alleged that on several days thereafter, similar acts were repeated. Another allegation is that the petitioner captured nude photographs of the victim and uploaded the same on his Instagram account and made these photographs as Instagram stories. The said photographs were shared as WhatsApp status also. It is also alleged that the petitioner asked for Rs.1,00,000/- for removing the pictures from the Whatsapp status. There is an allegation of physical

assault committed upon the victim as well.

The crim

apprehends arrest in connection with the investigation of this case, this application for anticipatory bail is submitted.

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

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

statements of the victim given before the Police as well as before the learned Magistrate under Section 164 Cr.P.C., specific allegations of sexual assaults and physical assaults are seen made. Even though the learned counsel for the petitioner submits that the petitioner and the de facto complainants were in a relationship and the sexual intercourse was based on consensus, materials placed on record would give a different impression. Of course, on some occasions, an element of consent can be seen, but acts of taking nude photographs and publishing the same indicate some other intention of the

petitioner. When taking note of the entire facts and circumstances of the case and the nature of the allegations raised against the petitioner, I am of the view that this is not a fit case in which anticipatory bail can be granted to the petitioner. B.A.No.5968/23 4 Therefore, this application is disposed of, directing the petitioner to cooperate with the investigation by surrendering before the Investigating Officer within a period of two weeks from today. Sd/- ZIYAD RAHMAN A.A. JUDGE

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