

XX XX XX XX vs State of Kerala

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Court : Kerala Orders

Decided On : Jul-31-2023

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

Appeal No. : Bail Appl./6116/2023

Appellant : XX XX XX XX

Respondent : State of Kerala

Advocate for Pet/Ap. : Sri. Samsudin Panolan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
MONDAY, THE 31ST DAY OF JULY 2023 / 9TH SRAVANA, 1945 IN
CRIME NO.711 OF 2023 OF KONDOTTY POLICE STATION IN
MALAPPURAM DISTRICT. PETITIONER/ACCUSED: XX XX XX XX BY
ADVS. P.SAMSUDIN MILAN RACHEL MATHEW NASRIN WAHAB
RESPONDENT/STATE: STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-
682 031. ADV. C.S. HRITHWIK, SENIOR PUBLIC PROSECUTOR THIS
BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
31.07.2023, THE COURT ON THE SAME DAY DELIVERED THE

ORDER

Dated this the 31st day of July, 2023 The petitioner is the sole accused in Crime No.711/2023 of Kondotty Police Station. The offences alleged against the petitioner are punishable under Sections 342, 366, 354A(1)(i), 376(2)(f) of IPC, Section 9(n) read with Sections 10, 5(n) read with Section 6 of POCSO Act and Section 75 of Juvenile Justice Act.

2. The prosecution allegation is that, on a day in

January, 2022 at about 4.30 p.m., the accused who is the uncle of the mother of the victim girl aged 16 years, enticed the victim, took her to his office room, and committed aggravated penetrative sexual assault. The crime was registered on 18.06.2023 and as part of the investigation, the petitioner was arrested on the same day, since then, he has been under judicial detention. This application for regular bail is submitted in such circumstances.

3. Heard Sri. Samsudin Panolan, learned counsel for the petitioner and Sri. C.S. Hrithwick, learned Senior Public Prosecutor for the State. -3-

4. Learned counsel for the petitioner submits that the

petitioner is innocent of all the allegations. According to him, a false case was registered against him. It is also pointed out that the investigation is almost over and there is no purpose in keeping the petitioner under judicial custody. He is a person aged 67 years. Therefore, the release of the petitioner was sought. Learned counsel also points that there is a delay of more than 1 years in reporting the matter.

5. Learned Public Prosecutor opposes the said

application by pointing out that there are specific allegations against the petitioner. The sexual act committed by the petitioner was specifically described in the statement given by the victim. Learned Public Prosecutor seeks dismissal of the

application.

6. I have gone through the records. As rightly pointed by

the learned Public Prosecutor, in the statement of the victim, given before the Police and also before the learned Magistrate under Section 164 Cr.P.C, the sexual acts committed by the petitioner have been clearly described. It is true that there is some delay in reporting the matter. However, that fact cannot -4- be taken as a ground to suspect the veracity of the statement given by the victim. Admittedly, the petitioner is the close relative of the victim. Even now, the matter is under investigation. In such circumstances, taking note of the specific nature of the allegations, seriousness thereof and the relationship between the parties, I am of the view that this is not a fit case in which bail can be granted. Accordingly, this application is dismissed. Sd/- ZIYAD RAHMAN A.A. JUDGE bpr

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