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Jayan vs State of Kerala

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Court : Kerala Orders

Decided On : Sep-21-2023

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

Appeal No. : Bail Appl./7151/2023

Appellant : JAYAN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. THURSDAY, THE 21ST DAY OF SEPTEMBER 2023/30TH BHADRA, 1945 BAIL APPL. NO. 7151 OF 2023 CRIME NO.725/2023 OF SOORANAD POLICE STATION Bail Appl. 5137/2023 OF HIGH COURT OF KERALA PETITIONER: JAYAN AGED 36 YEARS S/O BABURAJAN PILLAI,JAYABHAVANAM THRIKKUNNAPUZHA SOUTH KAKKAKUNNU .P.O.PATHARAM,SOORANADU SOUTH ,KOLLAM, PIN - 690522 BY ADV V.PHILIP MATHEWS RESPONDENTS: 1 STATE OF KERALA AGED 40 YEARS REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX ADV JACOB E SIMON -

PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :2 :

ORDER

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

2. The petitioner is the accused in crime No.725/2023 of

Sooranad Police Station, which was registered for the offences punishable under Section 377 of the Indian Penal Code , Sections 4 read with Section 3(a), 8 read with Section 7 and 10 read with Section 9(I) of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and also under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The prosecution case is that, on a day during the month

of March 2022, while the victim was bathing at a thodu near Tharayil Thekkathil Temple at Thrikkunnapuzha South, the petitioner committed sexual assault upon the victim by pressing on the penis of the victim and inserting the penis of the petitioner into the mouth of the victim. It is alleged that, similar incident was repeated on several occasions thereafter and the crime was registered in such circumstances. As part of the investigation, the petitioner was arrested on 16.05.2023 and since then he has been :3 : under judicial detention. Even though the petitioner approached this Court on an earlier occasion seeking bail, the same was dismissed as per Annexure-2 order. This application is submitted in such circumstances.

4. Heard Sri. V. Philip Mathew, the learned counsel appearing for the petitioner and Sri. Jacob E. Simon, the learned Public Prosecutor for the State.

5. The learned counsel for the petitioner submits that the

petitioner is innocent of all the allegations. He also specifically reiterated the contentions raised by him in his bail application, with regard to the previous animosity which the defacto complainant has against the petitioner, since he used to trouble and disturb the daughter of the petitioner. It was also alleged that the victim and his friends attacked the petitioners pet dog. Besides the same, it was also contended that, the mother of the petitioner is seriously ill and to look after her properly, the presence of the petitioner is required. Medical certificate of the mother of the petitioner was

also relied on. Moreover, it was also pointed out that the investigation in this case already over and final report submitted. Therefore, there is no purpose of keeping the petitioner under detention. This application is submitted in such circumstances and :4 : he seeks for bail.

6. On the other hand the learned Public Prosecutor would

oppose the aforesaid prayer. It was pointed out that there are specific allegations against the petitioner which would constitute the offences alleged against him and those are serious in nature. However, it is confirmed that the investigation in this case is already over and final report submitted.

7. I have carefully gone through the records. In the

statements of the victim, given before the Police as well as the learned Magistrate concerned under Section 164 Cr.P.C., specific allegations are raised. The sexual assaults allegedly made by the petitioner have been clearly described therein. The victim is a boy aged just 13 years. The allegations raised are very serious in

nature. In such circumstances, considering the nature of allegations, seriousness thereof and severity of punishment punishment for the offences alleged against the petitioner, I am of the view that, this is not a fit case in which bail can be granted. Of course, it is true that the investigation in this case is already over and final report submitted. However, this is a case in which are

punishable with imprisonment for life. This court has already considered the aforesaid contention raised by the petitioner in the

:5 : earlier bail application. In such circumstances, I do not find any merit in this application and accordingly, it is dismissed. Sd/- ZIYAD RAHMAN A.A. JUDGE ncd :6 : APPENDIX OF BAIL APPL. 7151/2023 PETITIONER ANNEXURES Annexure 1 COPY OF ORDER DATED 12.6.2023 PASSEDBY THE ADDITIONAL SESSIONS COURT - 1 ,KOLLAM IN CRL.MC .NO. 1242/2023 Annexure 2 CERTIFIED COPY OF ORDER DATED 14.07.2023 IN BAIL APPLICATION NO 5137 OF 2023 BEFORE HONOURABLE HIGH COURT

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