

Sanalkumar vs State of Kerala

Sanalkumar vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1387432

Court : Kerala

Decided On : Sep-27-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : CRL.A/1350/2023

Appellant : Sanalkumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
WEDNESDAY, THE 27TH DAY OF SEPTEMBER 2023 / 5TH ASWINA,
1945 CRL.A NO. 1350 OF 2023 AGAINST THE ORDER/JUDGMENT
CRMC 671/2023 OF DISTRICT COURT & SESSIONS COURT,
ERNAKULAM CRIME NO.623/2023 OF RAJAKKAD POLICE STATION,
IDUKKI APPELLANT/ACCYSED: SANALKUMAR, AGED 56 YEARS
VANCHITHAZHATHU HOUSE, DESHEEYAM BHAGAM, PATTANKADU
KARA, BAISONVALLEY VILLAGE, DEVIKULAM TALUK, IDUKKI
IDUKKI, PIN - 685565 BY ADVS. SUMAN CHAKRAVARTHY K.R.RIJA
BREJITHA UNNIKRISHNAN APARNA JOY RESPONDENTS/STATE &
DE FACTO COMPLAINANT: 1 STATE OF KERALA REPRESENTED

BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2
XXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX SRI. NOUSHAD K A (SR
PP) THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION
ON 27.09.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: CRL.A NO. 1350 OF 2023 2

JUDGMENT

This is an appeal under Section 14 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (the SC/ST Act), against the order of the Special Court refusing bail. The appellant is the accused in Crime No.623/2023 of Rajakkad police station, Idukki district, alleging commission of offences under Section 376 of the Indian Penal Code and Section 3(2)(V) of the SC/ST Act.

2. Allegation against the appellant is that, on

06.07.2023, at 10.30 pm, appellant had trespassed into the room where the de facto complainant was sleeping, committed rape on her and further on, 07.07.2023, the appellant tried to catch hold of the de facto complainant and when she resisted the same, she was pushed by the appellant and her phone was damaged.

3. Learned counsel appearing for the appellant would submit that the appellant preferred an application for bail (as Crl.M.C. No.671/2023) before the Special Judge for the

Scheduled Casts and the Scheduled Tribes (Prevention of Atrocities) Act, Thodupuzha. It is submitted that the said court, by order dated 25.08.2023, dismissed the bail application. It is CRL.A NO. 1350 OF 2023 3 submitted that the petitioner has been in custody from 13.07.2023 and has therefore completed nearly 75 days in custody. It is submitted that the allegations have been raised on account of business rivalry and that the alleged victim was formerly working with a business rival of the appellant. It is submitted that the allegations have been raised after the appellant had engaged the victim in a home stay run by the appellant. It is

submitted that the investigation has been completed and the final report has already been filed in the matter and therefore continued detention of the appellant is not necessary in the facts and circumstances of the case.

4. Learned Public Prosecutor opposed the grant of bail. It

is submitted that there are clear allegations against the appellant and the offences alleged are of a serious nature. It is submitted that after investigation, final report has been filed alleging commission of offences under sections 376 of the Indian Penal Code and Section 3(2)(V) of the Scheduled castes and the Scheduled Tribes (Prevention of Atrocities) amendment Act,

2015. It is submitted that, according to the victim, the appellant had engaged her to work in his home stay and on the date in question, the appellant had sexually assaulted her and committed rape on her while she was staying at the house of the CRL.A NO. 1350 OF 2023 4

appellant. It is submitted that, considering the gravity of the offence, the appellant is not entitled to bail. Learned Public Prosecutor confirms that notice of this bail application has been served on the victim on 19.09.2023.

5. Having heard the learned counsel appearing for the

petitioner and the learned Public Prosecutor, I am of the view that the appellant/petitioner can be released on bail subject to strict conditions. The appellant was arrested on 13.07.2023 and he has been in custody from that date. Investigation has been completed and a final report has been filed. While the offences alleged against the appellant are no doubt serious, I see no reason to continue the pre-trial detention of the appellant. Accordingly, this application for regular bail is allowed and it is directed that the petitioner shall be released on bail subject to the following conditions:-

(i) The appellant/petitioner shall execute 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;

(ii) Appellant/petitioner shall appear before the investigating officer in Crime No. 623/2023 of Rajakkad Police station as and when called upon to do so; CRL.A NO. 1350 OF 2023 5

(iii) The appellant shall not influence or intimidate the victim or any witness in Crime No.623/2023 of Rajakkad police station;

(iv) The appellant shall not make any attempt to contact the victim directly or indirectly;

(v) The appellant shall not involve in any other crime while

on bail. If any of the aforesaid conditions are violated, the investigating officer in Crime No.623/2023 of Rajakkad police station may file an application before the jurisdictional court, for cancellation of bail. Sd/- GOPINATH P. JUDGE ajt

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