

XXXXXXXXX vs State of Kerala

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Court : Kerala Orders

Decided On : Feb-21-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./176/2022

Appellant : XXXXXXXXX

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
MONDAY, THE 21ST DAY OF FEBRUARY 2022 / 2ND PHALGUNA,
1943 BAIL APPL. NO. 176 OF 2022 CRIME NO.1107 OF 2021 OF
KURUPPAMPADY POLICE STATION, ERNAKULAM
PETITIONER/ACCUSED : AGED 22 YEARS XXXXXXXXX, PIN - 782120
BY ADV SHABU SREEDHARAN RESPONDENT/S: 1 STATE OF
KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT
OF KERALA ERNAKULAM, PIN - 682031 2 XXXXXXXXX AGED 13
YEARS BY ADV PUBLIC PROSECUTOR OTHER PRESENT: SRI.
NOUSHAD K.A. (SR.PP) THIS BAIL APPLICATION HAVING COME UP
FOR ADMISSION ON 21.02.2022, THE COURT ON THE SAME DAY

ORDER

This is an application for regular bail.

2. The petitioner is the accused in Crime No.1107/2021 of

Kuruppampady Police Station, Ernakulam District, alleging commission of offences under Sections 376(2)(f), 376(2)(n) and 376(3) of the Indian Penal Code and Section 75 of the Juvenile Justice (Care and Protection of Children) Act.

3. The allegation against the petitioner is that he committed

penetrative sexual assault on his step daughter on several occasions as a result of which she became pregnant. It is alleged that owing to the threat from the petitioner, the victim did not reveal the incident to anyone including her mother.

4. The learned counsel for the petitioner submits that the

petitioner is absolutely innocent in the matter. It is submitted that he has been in custody from 26.9.2021 and that his continued detention is not necessary for the purposes of any investigation. It is submitted that a false complaint has been registered against the petitioner on account of some

issues between the petitioner and the mother of the victim.

5. I have heard the learned Public Prosecutor also.

6. The learned Public Prosecutor vehemently opposes the grant of

bail. It is submitted that the pregnancy of the victim was terminated and the DNA test conducted reveals that the petitioner was responsible for the pregnancy of the minor victim. It is pointed out that the report specifically B.A.No.176/2022 3 states that the petitioner is the biological father of the fetus of the victim. It is submitted that, if the petitioner is released on bail, there is every chance that the victim and other material witnesses may be intimidated in the matter. Having regard to the

facts and circumstances of the case, I am clearly of the opinion that this is a case, which warrants a custodial trial. The bail application fails and it is dismissed. sd/-
GOPINATH P. JUDGE acd B.A.No.176/2022 4 APPENDIX OF BAIL APPL.
176/2022 PETITIONER ANNEXURES Annexure1 THE TRUE COPY OF THE
ORDER OF THE POCSO COURT IN CMP NO. 937/2021 DATED 16.11.2021

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