

Robert vs State of Kerala

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Court : Kerala

Decided On : Jan-28-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./306/2022

Appellant : Robert

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY,
THE 28TH DAY OF JANUARY 2022 / 8TH MAGHA, 1943 BAIL APPL.
NO. 306 OF 2022 Crime No.3049/2021 of Neyyattinkara Police Station
PETITIONER/ACCUSED: ROBERT AGED 53 YEARS, SON OF LASAR,
RESIDING AT ANUGRAHA, CHAYKOTTUKONAM, NEYYATTINKARA
VILLAGE, AMARAVILA, THIRUVANANTHAPURAM, PIN - 695122 BY
ADV SASTHAMANGALAM S. AJITHKUMAR
RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED
BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM,
PIN - 682031 BY ADV PUBLIC PROSECUTOR OTHER PRESENT: SRI.
NOUSHAD K.A. (SR.PP) THIS BAIL APPLICATION HAVING COME UP

FOR ADMISSION ON 28.01.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: B.A. No.306/2022 -2-

ORDER

The petitioner is the accused in Crime No.3049/2021 of Neyyattinkara Police Station, Thiruvananthapuram District alleging commission of offences under Sections 341, 354(A) of the Indian Penal Code and Section 8 read with Section 7, 10 read with 9 (f), 12 read with 11 (i) of the Protection of Children from Sexual Offences Act.

2. The allegation against the petitioner who is stated to be running a

tuition centre is that he fondled the breast of the de facto complainant who was attending tuition centre for the purpose of tuition and thereby he committed the offences alleged against him.

3. The learned counsel for the petitioner submits that the petitioner

is absolutely innocent in the matter. It is submitted that the petitioner is a 53 year old man who has been running a tuition centre for large number of years and no similar allegations have been raised in the past. It is submitted that the allegations are raised on the basis of some misunderstanding. It is pointed out that even going by the statement of the victim, the allegation is that the petitioner molested her on one occasion in the month of April 2021. It is submitted that the petitioner has been in custody from 18-12-2021 and has thus completed 42 days in custody. It is submitted that the continued detention of the petitioner is not required for the purposes of any investigation.

B.A. No.306/2022 -3-

4. I have heard the learned Public Prosecutor also. The learned

Public Prosecutor has taken me through the statement of the victim and has pointed out the nature of the allegations against the petitioner. It is submitted that the petitioner was holding a position of trust and the allegations against the

petitioner are, therefore, more serious. It is submitted that the release of the petitioner on bail may not be conducive to the prosecution, as there is every chance that the victim may be intimidated and influenced.

5. Having regard to the facts and circumstances of the case and

considering the nature of the allegations against the petitioner and taking into account the fact that he has been in custody from 18-12-2021 and also considering the fact that his continued detention may not be necessary for the purpose of any investigation, I am of the view that the petitioner can be granted bail with sufficient conditions to ensure that the petitioner does not influence or intimidate the minor victim.

In the result this bail application is allowed. It is directed that the petitioner shall be released on bail, subject to the following conditions:-

- (i) The petitioner shall execute a 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) The Petitioner shall report before the Investigating officer in Crime No.3049/2021 of Neyyattinkara Police Station on every Saturday at B.A. No.306/2022 -4- 11 a.m until filing of final report in the aforesaid crime;
- (iii) The petitioner shall not attempt to interfere with the investigation, influence or intimidate the victim or any witness in Crime No.3049/2021 of Neyyattinkara Police Station;
- (iv) The petitioner shall not involve in any other crime while on bail. If any of the aforesaid conditions are violated, the Investigating officer in Crime No.3049/2021 of Neyyattinkara Police Station may file an application before the jurisdictional Court for cancellation of bail.

Sd/- GOPINATH P. JUDGE AMG B.A. No.306/2022 -5- APPENDIX OF BAIL APPL. 306/2022 PETITIONER ANNEXURES Annexure1 THE TRUE COPY OF FIR IN CRIME NO.3049/2021 OF NEYYATTINKARA POLICE

STATION,THIRUVANANTHAPURAM Annexure2 3. THE TRUE COPY OF THE STATEMENT DATED 18.12.2021 AT 12.50 HRS. OF THE VICTIM TO THE POLICE Annexure3 THE TRUE COPY OF THE MEDICAL CERTIFICATE OF THE VICTIM Annexure4 THE CERTIFIED COPY OF ORDER IN CRL.M.P.15/2022 BEFORE THE ADDITIONAL DISTRICT & SESSIONS COURT (POCSO)THIRUVANANTHAPURAM

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