

Aji. a vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1445693

Court : Kerala

Decided On : Mar-07-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./692/2022

Appellant : AJI. A

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
MONDAY, THE 7TH DAY OF MARCH 2022 / 16TH PHALGUNA, 1943
CRIME NO.13/2022 OF ERNAKULAM SOUTH POLICE STATION,
ERNAKULAM CITY PETITIONER/ACCUSED: AJI. A, AGED 23 YEARS,
S/O.ALI.K.M, RESIDING AT MUKKUDATHUNDI HOUSE, KUNJHAN
BHAVA ROAD, PONNURUNNI, VYTILLA P.O, POONITHURA VILLAGE,
ERNAKULAM - 682 019. BY ADVS. THOMAS J.ANAKKALLUNKAL
ABISHEK JOHNY NIRMAL CHERIYAN VARGHESE RESPONDENT:
STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA - 682 031. BY SRI.M.C.ASHI, PUBLIC
PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR

ADMISSION ON 07.03.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

ORDER

This is an application for regular bail.

2. The petitioner is the accused in Crime No.13 of 2022

of Ernakulam Town South Police Station, Ernakulam District, alleging commission of offences under Sections 363, 449, 354(A)(1)(1), 354D and 376(2)(n) of the Indian Penal Code and Section 4 read with Section 3(a), Section 6 read with Section 5(1), Section 8 read with Section 7, Section 10 read with Section 9(1) and Section 12 read with Section 11(iv) of

Protection of Children from Sexual Offences Act, 2012. The allegation against the petitioner is in December 2018, when the victim was only 14 years of age, the petitioner had kidnapped her from the lawful custody of her parents and had sexually molested her in a car. It is also alleged that thereafter, in the month of September 2020, the petitioner had trespassed into the house of the victim and had sexually abused her and there was also penetrative sexual assault.

3. The learned counsel for the petitioner submits that the petitioner and the victim were in a relationship and intend

to get married to each other. It is submitted that the petitioner is a student and that he is completely innocent of the allegations levelled against him. It is submitted that the allegations have been raised on account of the fact that the parents of the victim are opposed to the relationship of the victim with the petitioner. It is submitted that the petitioner has been in custody for 47 days and his continued detention is not necessary for the purpose of any investigation.

4. The learned Public Prosecutor opposes the grant of

bail. The circumstances of the case are pointed out from the record. It is submitted that the petitioner is the accused of having committed a serious offence and he

should not be granted bail. It is also submitted with reference of the

judgment of the Supreme Court in X (Minor) v. The State of

Jharkhand and Another [Crl.Appeal No.263 of 2022] that the statement that the victim and the accused were in love each other, there is no consideration for the grant of bail to the accused in this case.

5. Having regard to the facts and circumstances of the case and considering the fact that the petitioner has been in

custody for the last 47 days, I am of the view that the petitioner can be granted bail subject to conditions especially since his continued detention may not be necessary for the purpose of any investigation.

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

(1) The petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties for the like sum to the satisfaction of the Jurisdictional Court;

(2) Petitioner shall report before the investigating officer in Crime No.13 of 2022 of Ernakulam Town South Police Station, Ernakulam District, on every Saturday at 11.00AM until further orders;

(3) The petitioner shall not attempt to interfere with the investigation or to influence or intimidate victim or any witness in Crime No.13 of 2022 of Ernakulam Town South Police Station, Ernakulam District;

(4) 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.13 of 2022 of Ernakulam Town South Police Station, Ernakulam District, may file an application before the Jurisdictional Court for cancellation of bail. Sd/-
GOPINATH P. JUDGE DK