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Akash vs State of Kerala

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Court : Kerala

Decided On : Feb-28-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./1304/2022

Appellant : AKASH

Respondent : State of Kerala

Judgement :

B.A.No.1304/2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. MONDAY, THE 28TH DAY OF FEBRUARY 2022 / 9TH PHALGUNA, 1943 BAIL APPL. NO. 1304 OF 2022 CRIME NO.80/2022 OF KUNDARA POLICE STATION, KOLLAM AGAINST THE ORDER/JUDGMENT IN CRMC 140/2022 OF I ADDITIONAL DISTRICT COURT & I ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL ,KOLLAM

PETITIONER/ACCUSED: AKASH AGED 18 YEARS ACHU BHAVANAM, AMBIPOYKA, KUNDARA, KOLLAM., PIN - BY ADVS.

AJAYA KUMAR. G M.JAYAKRISHNAN RESPONDENTS/STATE & COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 STATION HOUSE OFFICER KUNDARA POLICE STATION , KOLLAM , PIN - 691501 OTHER PRESENT: SMT. MAYA M.N. (PP) THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.1304/2022 2

ORDER

This is an application for regular bail.

2. The petitioner is the accused in Crime No.80/2022 of Kundara

Police Station, Kollam District alleging commission of offences under Sections 363 & 376 of the Indian Penal Code and Section 3(a) & 4(1) of Protection of Children from Sexual Offences Act, 2012.

3. On 13.01.2022, the petitioner, aged 18, is alleged to have taken the

victim, aged 17, to a secluded place after kidnapping her from the lawful custody of her parents and is also alleged to have had sexual intercourse with her on the same day and thereby he is alleged to have committed the offences under the aforesaid provisions of law .

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

and the alleged victim are classmates. It is submitted that the victim had gone voluntarily with the petitioner and the petitioner had not kidnapped her from the

lawful custody of her parents. It is submitted that the petitioner had not committed any sexual assault of rape on the victim as alleged. It is submitted that the petitioner has been custody from 14.1.2022 and has completed 45 days in custody. It is submitted that the continued detention of the petitioner is not necessary for the purposes of any investigation.

5. I have heard the learned Public Prosecutor also.

6. The learned Public Prosecutor vehemently opposes the grant of bail.

Circumstances of the case are pointed out from the record and it is stated that the the question of consent does not arise as the victim is admittedly a minor. It is

B.A.No.1304/2022 3 submitted that since the victim is a minor, the petitioner has also committed the offence of kidnapping even if, for a moment, it could be believed that the victim had gone voluntarily with the petitioner. It is submitted that the offences alleged against the petitioner are serious and he is not entitled to be released on bail.

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

considering the fact that the petitioner is a 18 year old boy and since the continued detention of the petitioner is not necessary for the purposes of any investigation, I am of the opinion that the petitioner can be granted bail subject to conditions.

8. 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. 80/2022 of Kundara Police Station, as and when called upon to do so;

(iii) The petitioner shall not enter the local limits of Kundara Police

Station till the filing of final report in Crime No. 80/2022 of Kundara Police Station except for the purpose of attending any court proceedings or appearing before any authority;

(iv) The petitioner shall not attempt to contact the victim or interfere with the investigation or to influence or intimidate any witness in B.A.No.1304/2022 4

Crime No. 80/2022 of Kundara Police Station;

(v) 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. 80/2022 of Kundara Police Station, may file an application before the jurisdictional Court for cancellation of bail. Sd/- GOPINATH P. JUDGE acd B.A.No.1304/2022 5 APPENDIX OF BAIL APPL. 1304/2022 PETITIONER ANNEXURES Annexure1 ANNEXURE 1

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