

Masthi vs State of Kerala

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Court : Kerala Orders

Decided On : May-31-2022

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Bail Appl./1575/2022

Appellant : Masthi

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS TUESDAY, THE 31ST DAY OF MAY 2022 / 10TH JYAISHTA, 1944 (IN CRIME NO.762/2021 OF SULTHANBOTHERY POLICE STATION) PETITIONER/ACCUSED: MASTHI, S/O.BOMMAN AGED 55 YEARS ANAKYAMB,KATTUNAIKKA COLONY,MUTHANGA, NOOLPUZHA AMSOM,WAYANAD, PIN - 673592 BY ADV TONY THOMAS (INCHIPARAMBIL) RESPONDENT/STATE: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 SMT.M.K.PUSHPALATHA,SR. PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.05.2022,

THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
BECHU KURIAN THOMAS, J B.A.No.1575 of
2022 Dated this the 31 st day of May, 2022

ORDER

Petition filed under Section 439 Cr.P.C.

2. Petitioner is the 1 st accused in Crime No.762 of 2021 of

Sulthanbathery Police Station registered for the offences punishable under Sections 363, 376(2)(n) and 376(3) of the Indian Penal Code and also under Sections 5(1) and (m) r/w 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012. The prosecution case is that, petitioner committed rape on two minor children aged about 13 years, who are twins, on the same day one after the other.

3. Sri.Tony Thomas Inchiparambil, the learned counsel for the

petitioner, submitted that petitioner is totally innocent and has been falsely implicated with ulterior motives. He further submitted that the crime was registered under the instigation of a third party, who prodded the victim to speak against the petitioner.

4. Smt.M.K.Pushpalatha, the learned Senior Public Prosecutor vehemently opposed the grant of bail and contended that the

petitioner is 55 years old, who committed offence on twin sisters who are only 13 years. It was further submitted that the petitioner was arrested on 08.11.2021 and continued to remain a threat to minor children.

5. Having considered the arguments raised by the learned

counsel for the petitioner as well as the learned Public Prosecutor, I notice that the petitioner, who is a neighbour of the victims, is alleged to

have committed serious offences against twin sisters. The contention of the public prosecutor that petitioner will continue to remain as a threat to the victims, cannot be ignored. Having regard to the seriousness of the allegation of this case and the fact that even though the final report has been filed and the case is pending as S.C.No.37/2022 before the Sessions Court [Special Court for Trial of Offences under POCSO Act], Kalpetta, I am of the view that the petitioner is not entitled for the grant of bail at this stage. Therefore, the bail application is dismissed.

sd/- BECHU KURIAN THOMAS JUDGE AMV/31/05//2022

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