

Chandra Dev vs State of Kerala

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Court : Kerala Orders

Decided On : Jul-22-2022

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Bail Appl./2679/2022

Appellant : Chandra Dev

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS FRIDAY, THE 22ND DAY OF JULY 2022 / 31ST ASHADHA, 1944 [CRIME NO.208/2022 OF KILIMANOOR POLICE STATION, THIRUVANANTHAPURAM] PETITIONER/2ND ACCUSED: CHANDRA DEV AGED 46 YEARS S/O.BHASKARAN BHASKARA VILASOM KEEZHTHONNAYKKAL KUDAVOOR P.O THIRUVANANTHAPURAM, PIN - 695313 BY ADV C.R.SURESH KUMAR RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY THE SHO OF KILIMANOOR POLICE STATION THROUGH THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 BY ADV M.K.PUSHPALATHA-PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22.07.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

===== B.A.No. 2679 of 2022
===== Dated this the 22nd day of July,
2022

ORDER

This is an application seeking pre-arrest bail filed under Section 438 of the Code of Criminal Procedure, 1973.

2. Petitioner is the 2nd accused in Crime No.208/2022 of the

Kilimanoor Police Station, Thiruvananthapuram, alleging offences under Sections 366, 376(3) and 376E r/w Section 34 of the Indian Penal Code, 1860 and Section 4(2) r/w Section 3(a) of the Protection of Children from Sexual Offences Act, 2012 apart from Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The prosecution case is that the 1st accused committed

aggravated penetrative sexual assault and rape on the survivor after kidnapping her, while the 2nd and 3rd accused provided facilities to the 1st accused to commit the aforesaid crime. The petitioner took the 1st accused and the victim in his car and also provided space in a house for the 1st accused to perpetrate the crime and thus the accused committed the offences alleged.

4. Shri.C.R.Suresh Kumar, the learned counsel for the

petitioner contended that the entire prosecution allegations are false and that petitioner has no involvement. It is further pointed out that even if the

allegations are assumed to be correct for argument sake, all that the petitioner is alleged to have done is to provide transport to a man and woman, who claimed themselves to be husband and wife, from Kazhakuttom to Thampanoor Railway Station apart from providing them a place to stay. According to the petitioner, the said allegations do not constitute an offence as contemplated. In such circumstances, the petitioner sought for the benefit of pre-arrest bail.

5. Smt.M.K.Pushpalatha, the learned Public Prosecutor

opposed the grant of pre-arrest bail and submitted that the petitioner is involved in similar crimes on earlier occasions. It was informed that Crime No.937/2012 of Pangode Police Station and two other crimes have been charged against the petitioner and therefore, he is not entitled to be protected with a pre-arrest bail.

6. Considering the circumstances pointed out, including the

criminal antecedent of the petitioner, I am of the view that the petitioner cannot be protected with a pre-arrest bail. However, if the petitioner surrenders before the Investigating Officer on 27.07.2022 and if, after interrogation, petitioner is arrested, the Investigating Officer shall produce him before the Jurisdictional Magistrate, as expeditiously as possible, who shall consider application for bail, if any, in accordance with law. This bail application is dismissed.

Sd/- BECHU KURIAN THOMAS JUDGE ssa/

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