

Ani vs State of Kerala

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Court : Kerala

Decided On : Aug-01-2022

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Bail Appl./10066/2021

Appellant : ANI

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS MONDAY, THE 1ST DAY OF AUGUST 2022 / 10TH SRAVANA, 1944 CRIME NO.1365/2021 OF Kunnicoode Police Station, Kollam AGAINST THE ORDER/JUDGMENTCMP 1633/2021 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I, PATHANAPURAM PETITIONER: ANI AGED 44 YEARS S/O ACHUTAN, AGED 44 YEARS, MAMVILA PUTHEN VEEDU, MELEPPURA, NADUTHERI MURI, THALAVOOR VILLAGE, PATHANAPURAM TALUK, KOLLAM DISTRICT - 691508 BY ADVS. SUBHASH CYRIAC S.SREEJITH (S-3453) ASHA JYOTHY RESPONDENT: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF

KERALA, ERNAKULAM - 682031 BY ADV. NOUSHAD K.A.-PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01.08.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

===== B.A.No. 10066 of 2021
===== Dated this the 1st day of August,
2022

ORDER

This is an application seeking regular bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. Petitioner is the sole accused in Crime No.1365/2021,

of the Kunnicoode Police Station, Kollam, alleging offences under Sections 376(1), 376(2)(j), 376(2)(L) and 376(2)(n) r/w Section 447 of the Indian Penal Code, 1860.

3. The prosecution case is that the petitioner committed

rape upon the de-facto complainant, who is allegedly a mentally retarded person, after trespassing into the house of the defacto complainant and after promising to marry her. Later, when the defacto complainant became pregnant, the petitioner is alleged to have refused to marry her and thereby, committed the offences alleged against him.

4. Shri.Subhash Syriac, the learned counsel for the

petitioner submitted that even though petitioner is willing to marry the victim, since the victim is no longer ready and his divorce case is only under consideration, the alleged rape under a false promise to marry is not legally and factually correct. He further submitted that even if the entire prosecution case is assumed to be correct, still the same would

only reveal a consensual relationship.

5. The learned Public Prosecutor opposed the grant of

bail and submitted that the petitioner is alleged to have committed a serious offence. He further submitted that by interim order dated 10.01.2022, this Court had granted an interim bail to the petitioner. Thereafter, the investigation has been completed and final report was filed on 25.05.2022.

6. On an appreciation of the contentions raised by the learned counsel for the petitioner as well as the learned Public

Prosecutor and on a perusal of the interim order of this Court dated 10.01.2022, I am satisfied that the interim order granted to the petitioner can be made absolute, especially since the final report has already been filed and custodial interrogation is no longer required.

7. Accordingly, by making the interim order dated

10.01.2022 absolute, this bail application is allowed on the following conditions: i) The bond extended and sureties offered already shall continue until conclusion of trial. ii) Petitioner shall participate and co-operate with the trial of the case. iii) Petitioner shall not intimidate or threaten the victim or the witnesses in the crime.

(iv) Petitioner shall not commit other similar crimes.

(v) Petitioner shall not leave the country without obtaining permission from the jurisdictional Court.

8. In case of violation of any of the above conditions,

the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with the law, notwithstanding the bail having been granted by this Court. BECHU KURIAN THOMAS JUDGE ssa/

