

XXX vs State of Kerala

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Court : Kerala Orders

Decided On : Dec-23-2022

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Bail Appl./10117/2022

Appellant : XXX

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS FRIDAY, THE 23RD DAY OF DECEMBER 2022 / 2ND POUSHA, 1944 (Crime No.424/2022 of Nallalam Police Station, Kozhikode) PETITIONER/S: XXXXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX BY ADV NIREESH MATHEW RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 BY ADV PUBLIC PROSECUTOR OTHER PRESENT: PP SMT.C.SEENA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23.12.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

===== B.A.No.10117 of 2022
----- Dated this the 23rd day of December,
2022

ORDER

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

2. Petitioner is the accused in Crime No.424/2022 of

Nallalam Police Station, Kozhikode. The offences alleged against the petitioner are under Sections 376(f)(n) and 506(i) of the Indian Penal Code, 1860 and Sections 4 read with 3(b), Section 6 read with Section 5(l)(n), Section 10 read with Section 9(l)(n) of the Protection of Children from Sexual Offences Act, 2012.

3. According to the prosecution, on 04.07.2022, the

accused, who is the neighbour and the uncle of the minor victim, aged 13 years, hugged and kissed her with sexual intent and thereafter inserted his finger into her vagina repeatedly, on every Saturday and Sunday and thereby committed the offences alleged. Petitioner was arrested on 21.10.2022.

4. Sri.Nireesh Mathew, learned Counsel for the

petitioner submitted that the entire allegations are false and the incident as alleged had never occurred. It was further pointed out that it is impossible to believe that the victim had been repeatedly coming to petitioners shop on every Saturday and Sunday in spite of the alleged sexual abuse committed by him earlier. According to the learned Counsel, there is a property dispute between the victims parents and the petitioner and that they are exploiting this situation, utilising their daughter.

5. Smt.C.Seena, learned Public Prosecutor opposed the

grant of bail and contended that the allegations against the petitioner are serious and the victim is a 13 year old girl, who was subjected to penetrative sexual assault repeatedly, for several months.

6. I have considered the rival contentions and have perused the statement of the victim.

7. Petitioner is alleged to have committed penetrative

sexual assault on the victim repeatedly on several days by inserting his finger into her vagina. Petitioner was arrested only on 21.10.2022 and the investigation is still continuing.

8. Having regard to the nature of allegations and taking note of the age of the victim, I am of the view that petitioner is not entitled to be released on bail at this juncture. Accordingly, this bail application is dismissed. BECHU KURIAN THOMAS JUDGE jm/

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