

**Rajeev vs State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1599025](https://sooperkanoon.com/1599025)

**Court :** Kerala

**Decided On :** Feb-15-2021

**Judge :** Honourable Mr. Justice P.V.Kunhikrishnan

**Appeal No. :** Bail Appl./1155/2021

**Appellant :** Rajeev

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN  
MONDAY, THE 15TH DAY OF FEBRUARY 2021 / 26TH MAGHA,1942  
Bail Appl..No.1155 OF 2021 CRIME NO.26/2020 OF Peroorkada Police  
Station , Thiruvananthapuram PETITIONER/S: RAJEEV AGED 45  
YEARS 352 HARITHA NILAYAM, OLAMPARA, KUDAPPANAKUNNU,  
PEROORKADA, THIRUVANANTHAPURAM, PIN- 695005 BY ADV.  
SRI.M.R.SARIN

RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC  
PROSECUTOR,HIGH COURT OF KERALA R1 BY PUBLIC PROSECUTOR  
OTHER PRESENT: C N PRABHAKARAN PP THIS BAIL APPLICATION HAVING  
COME UP FOR ADMISSION ON 15.02.2021, THE COURT ON THE SAME DAY

PASSED THE FOLLOWING: Bail Appl..No.1155 OF 2021 2

**P.V.KUNHIKRISHNAN, J.**

----- B.A. No. 1155 of 2021 -----

Dated this the 15th day of February, 2021

## **ORDER**

This Bail Application filed under Section 439 of Criminal Procedure Code was heard through Video Conference.

2. Petitioner is the accused in Crime No.26 of 2021 of

Poojappura Police Station. The above case is registered against the petitioner alleging offences punishable under Secs. 8 r/w 7, 10 r/w 9(c)(i)(k)(l) of the Protection of Children from Sexual Offences (POCSO) Act, 2012. The offence under Sec. 119(a) of the KP Act is also alleged. The petitioner was arrested on 25.12.2020.

3. The prosecution case is that the petitioner, who is a Physiotherapist working in the General Hospital, repeatedly committed aggravated sexual assault against the victim boy Bail Appl..No.1155 OF 2021 3

aged 14 during the course of his employment. The Prosecution has alleged that the petitioner committed the sexual assaults on victim by touching his penis and that caused bleeding on his penis. The petitioner is in custody from 10.1.2021 onwards.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

5. The counsel for the petitioner submitted that the

allegation against the petitioner is not correct. He was doing his duties as a Physiotherapist. The counsel submitted that the petitioner is in custody from 10.1.2021 onwards. The counsel submitted that the petitioner is ready to abide any conditions, if this Court grants him bail. The counsel also submitted that there

is 10 days delay in filing the complaint.

6. The learned Public Prosecutor seriously opposed

the bail application. The Public Prosecutor submitted that the petitioner is a temporary employee in the Government service and the allegation against the petitioner is very Bail Appl..No.1155 OF 2021 4 serious.

7. After hearing both sides and considering the fact

that the petitioner is in custody from 10.01.2021 onwards, I think this bail application can be allowed, on stringent conditions. It is true that the allegations against the petitioner are very serious. But there is a delay of 10 days in filing the complaint. These are matters to be investigated

by the investigating officer during the c

allowed on condition that the petitioner shall not enter the jurisdictional limit of Poojappura Police Station, till the investigation in Crime No. 26/2021 is completed. The petitioner shall also appear before the investigating officer on all Mondays, till the final report is filed. With these conditions, this bail application can be allowed.

8. Moreover, considering the need to follow social distancing norms inside prisons so as to avert the spread of Bail Appl..No.1155 OF 2021 5

the novel Corona Virus Pandemic, the Hon'ble Supreme Court in Re: Contagion of COVID-19 Virus In Prisons case (Suo Motu Writ Petition(C) No.1 of 2020) and a Full Bench of this Court in W.P(C)No.9400 of 2020 issued various salutary directions for minimizing the number of inmates inside prisons.

9. Moreover, it is a well accepted principle that the bail is the rule and the jail is the exception. The Hon'ble Supreme Court in Chidambaram. P v Directorate of Enforcement (2019 (16) SCALE 870), after considering

all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair

trial.

10. Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, this Bail Application is allowed with the following Bail Appl..No.1155 OF 2021 6 directions:

1. Petitioner shall be released on bail

on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

2. The petitioner shall appear before

the Investigating Officer for interrogation as and when required. The petitioner shall co-operate with the investigation and shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

3. Petitioner shall not leave India without permission of the jurisdictional Court. Bail Appl..No.1155 OF 2021 7

4. Petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

5. Petitioner shall strictly abide by the various guidelines issued by the State Government and Central Government with respect to keeping of social distancing in the wake of Covid 19 pandemic.

6. Petitioner shall not enter the jurisdictional limit of Poojappura Police Station, till the investigation in Crime No.26/2021 is completed.

7. Petitioner shall appear before the

investigating officer on all Mondays at 10.00 am, till the final report is filed. For the purpose of appearing before the investigating officer, the petitioner can enter Bail Appl..No.1155 OF 2021 8 the jurisdictional limit of the Poojappura Police Station.

8. If any of the above conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court. sd/- P.V.KUNHIKRISHNAN JUDGE SKS

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