SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Sameer vs the State of Kerala

Sameer vs the State of Kerala

SooperKanoon Citation : sooperkanoon.com/1764367

Court : Kerala

Decided On : Apr-17-2020

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./2385/2020

Appellant : Sameer

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT: THE HONOURABLE MR.JUSTICE C.S. DIAS FRIDAY, THE 17TH DAY OF APRIL 2020/28th CHAITHRA 1942 B.A. NO. 2385/2020. (In Crime No.36/2020 of Ambalathara Police Station, Kasaragod District.) PETITIONER/ ACCUSED Sameer, S/o. Abdulla, Aged 32 years, Residing at Ethirkayam House,Ambalathara, Pullur Village, Hosdurg Taluk, Kasaragod District. BY Adv. Madhu.T. RESPONDENTS/STATE

1. The State of Kerala, Represented by the Public Prosecutor, High Court of Kerala, Ernakulam 682031.

2. The Station House Officer,

Ambalathara Police Station Kasaragod District 671531 BY PUBLIC PROSECUTOR SRI.AMJAD ALI THIS B.A. HAVING BEEN FINALLY HEARD ON 17.04.2020, THE COURT ON THE SAME PASSED THE FOLLOWING:

ORDER

This application is filed under Section 439 of the Code of Criminal Procedure. The petitioner is the accused in Crime No.36/2020 of Ambalathara Police Station. The petitioner is alleged to have committed the offences punishable under Sections 7, 8, 11 (i) (ii) (iii) and 12 of the Protection of the Children from Sexual Offences Act.

2. The prosecution case against the petitioner is

that, on 12.2.2020, the petitioner showed obscene pictures on his mobile phone to the minor victim, a boy aged 15 years. The petitioner was arrested on 6.3.2020.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor, through video conferencing.

4. The learned counsel for the petitioner argued

that the petitioner was arrested on 6.3.2020, and that he is in judicial custody for the last 42 days. The allegations that have been levelled against him is per se false. It is out of the previous animosity between the petitioner and the family of the victim that the present complaint has been foisted against him. Hence the petitioner may be enlarged on bail.

5. The learned Public Prosecutor opposed the

application He argued that the petitioner has previous criminal antecedents. He is the accused of committing a similar offence in Crime No.151/2016 of the same Police

Station. The said case has been committed and has been numbered as SC 566/2017 pending before the First Additional Sessions Court, Kasaragod. The petitioner had committed an offence punishable under Section 377 IPC. Hence the petitioners antecedents prove that he is likely to commit similar offences, if he is

released on bail.

6. In view of the outbreak of Covid-19 pandemic in the country, the Hon'ble Supreme Court in WP(C) No.1/2020 has categorically directed all courts to decongest the prisons in the country. A full Bench of this Court in W.P No.9400/2020 has passed similar directions.

7. Having considered the facts and circumstances of the case, and that the petitioner was arrested on 6.3.2020 and also the fact that the offence levelled

against the petitioner are punishable for a period of maximum term of five years, I am inclined to grant bail, especially considering the directions passed by the Supreme Court in contagious of Covid-19 virus case. Hence the above bail application is allowed on the following conditions.

(i) The Superintendent of Jail where the

petitioner is incarcerated is directed to release the petitioner on furnishing his phone number and the phone number of his immediate relative. The Superintendent of jail shall verify the above details and release the petitioner to the Station House Officer of the Police Station which has registered the crime, who shall in turn release the petitioner.

(ii) The petitioner shall within one week

from the re-opening of the court, if not already re-opened, execute a bond for a sum of Rs.50,000/- with two solvent sureties for the like sum each to the satisfaction of the jurisdictional court.

(iii) The petitioner shall appear before the Investigating Officer on all Saturdays between 10.00 a.m and 11 a.m till the final report is laid.

(iv) The petitioner shall not tamper with the evidence or influence the witnesses in the case in any manner whatsoever.

(v) The petitioner shall not commit any offence while on bail. Needless to mention that if the petitioner violates

any of the conditions above, the Station House Officer shall be at liberty to approach the Jurisdictional court and file appropriate applications, seeking for cancellation of bail. Sd/- ma C.S.DIAS, JUDGE INDEX Petitioner's exhibits: Annexure-A1. The true copy of the order dated 19-3-2020 in Crl.M.P. No. 872/2020 on the file of the learned First Additional Sessions Court, Kasaragod.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com