

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 30TH DAY OF NOVEMBER 2021 / 9TH AGRAHAYANA, 1943

BAIL APPL. NO. 9086 OF 2021

AGAINST THE ORDER IN CRMP 990/2021 OF I ADDITIONAL SESSIONS COURT,

ERNAKULAM

CRIME NO.1322/2021 OF NJARAKKAL POLICE STATION

PETITIONER/ACCUSED:

XXX

XXX

BY ADVS.

K.R.VINOD

M.S.LETHA

RESPONDENT/STATE:

STATE OF KERALA

REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA , KOCHI 31

SMT. SEETHA .S. (SR.PP)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.11.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application for regular bail.

2. Petitioner is the accused in Crime No.1322/2021 of Njarakkal police station, alleging commission of offences under Sections 66E and 67A of the Information Technology Act, Section 354(D) of the Indian Penal Code and Section 12 r/w. 11(v) of the Protection of Children from Sexual Offences Act.

3. The allegation against the petitioner is that, he had sent explicit photos of the victim girl to her brother's mobile phone and thereby, he committed the offence under the aforesaid provisions of law.

4. Learned counsel appearing for the petitioner submits that the only non-bailable offence that is alleged is that under Section 67A of the Information Technology Act and that even if the entire prosecution allegations are accepted as true, the offence under Section 67A of the Information Technology Act is not attracted. It is also submitted that the petitioner has been in custody from 18.11.2021 and further detention of the petitioner is not necessary in the facts and circumstances of the case.

5. Learned Public Prosecutor submits that the allegations against the petitioner is that, when the brother of the victim objected to the petitioner having normal pictures of the victim girl, he sent the explicit pictures of the victim girl to the brother of the victim. It is further submitted that continued detention of the petitioner is necessary for the purpose of investigation in the case.

6. Having regard to the facts and circumstances of the case and considering the fact that the petition is only aged 19 and also considering the fact that the petitioner has been in custody from 18.11.2021, I am of the opinion that the petitioner can be released on bail subject to strict conditions. Accordingly, this application for regular bail is allowed and it is directed that the petitioner shall be released on bail subject to the following conditions:-

(i) The petitioner shall execute bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like-sum to the satisfaction of the jurisdictional court;

(ii) Petitioner shall appear before the investigating officer in Crime No. 1322/2021 of Njarakkal Police station on every Tuesday and Saturday at 9.00 am until further orders;

(iii) The petitioners shall not attempt to interfere with the investigation, influence or intimidate the victim or any witness in Crime No..1322/2021 of Njarakkal police station;

(iv) The petitioner shall not enter the local limits of the Njarakkal police station where the *de facto* complainant is residing except for the purpose of complying with condition No.(ii) above;

(v) The petitioner shall surrender his passport before the jurisdictional court. If the petitioner does not have a passport, he shall execute an affidavit to that effect and file the same before the said court within seven days of release on bail;

(vi) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the *de-facto* complainant or the investigating officer in Crime No.1322/2021 of Njarakkal police station may file an application before this Court, for cancellation of bail.

SD/-

GOPINATH P.
JUDGE

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