

] IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 31ST DAY OF AUGUST 2022 / 9TH BHADRA, 1944

BAIL APPL. NO. 6177 OF 2022

CRIME NO.470/2022 OF Kondotty Police Station, Malappuram

PETITIONER/ ACCUSED :

MUHAMMED ANAS,
AGED 20 YEARS, S/O. ASHIQUE,
APPIKUNNU HOUSE, CALICUT AIRPORT POST,
NAYABAZAR, KONDOTTY TALUK,
MALAPPURAM DISTRICT, PIN - 673 647

BY ADVS.
K.K.DHEERENDRAKRISHNAN
N.P.ASHA

RESPONDENT/ STATE :

STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM - 682 031 (CRIME NO. 470/2022 OF KONDOTTY,
MALAPPURAM DISTRICT)

BY SMT.M.K.PUSHPALATHA, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
31.08.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

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B.A.No.6177 of 2022

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Dated this the 31st 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 accused in Crime No.470/2022 of Kondotty Police Station alleging offences under Sections 450 and 376(2)(n) of the Indian Penal Code, 1860 apart from Section 5(l) r/w Section 6(l) of the Protection of children from Sexual Offences Act, 2012.

3. According to the prosecution, the accused enticed the victim, aged 15 years and after trespassing into her house committed aggravated penetrative sexual assault between 07.05.2022 and 02.07.2022 and thereby committed the offences alleged.

4. Sri.K.K.Dheerendrakrishnan, the learned counsel for the petitioner contended that the entire prosecution allegations are false and the incident as alleged had not occurred. It was further pointed out that even if the statement of the victim is assumed to be admitted, still the same would only reveal a consensual relationship and considering the fact that the accused is only 20 years in age, the continued detention of the petitioner may not be warranted.

5. Smt.M.K.Pushpalatha, the learned Public Prosecutor opposed the grant of bail and contended that the victim was only 15 years in age at the time of incident and therefore the statutory minimum imprisonment cannot be ignored. It was further pointed out that the repeated penetrative sexual assault is alleged and since the investigation is still continuing, petitioner ought not to be released.

6. I have perused the statement of the victim and have also appreciated the contentions raised by the respective counsel.

7. Even though the offences alleged against the petitioner are serious in nature, especially in the light of the minimum statutory punishment, taking note of the circumstances that the petitioner is only 20 years in age and is claimed to be a part-time student, I am of the view that since the petitioner has been in detention from 08.07.2022, the continued detention may not be necessary for the purpose of the prosecution. However, strict conditions ought to be imposed.

8. Accordingly I allow this application for bail and direct the petitioner to be released on bail on the following conditions :-

- (a) Petitioner shall be released on bail on him 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 court having jurisdiction.
- (b) Petitioner shall appear before the Investigating Officer as and when required.

- (c) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he tamper with the evidence or contact the victim or her family members.
- (d) Petitioner shall not commit any similar offences while he is on bail.
- (e) Petitioner shall not enter into the jurisdictional limits of Kondotty Police Station nor shall he attempt directly or indirectly to contact or interact either the victim or her family members under any circumstances.
- (f) Petitioner shall not leave India without the permission of the Court having jurisdiction.

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

RKM