

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SOPHY THOMAS

WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA, 1945

BAIL APPL. NO. 10228 OF 2023

CRIME NO.476/2023 OF Cheemeni Police Station, Kasargod

PETITIONER:

THAYOOB,
AGED 45 YEARS
S/O.MUHAMMED KUNNI, MANAKKATT THEKKE PEEDIKAYIL AG
HOUSE, POTHAMKANDAM P.O, PADIYOTCHAL, VIA PAYYANNUR,
KANNUR, PIN - 670307
BY ADVS.
SUNNY MATHEW
ANOOJ.J

RESPONDENTS/COMPLAINANTS & STATE:

- 1 THE STATION HOUSE OFFICER,
CHEEMENI POLICE STATION, KASARGOD DISTRICT, PIN -
671313
- 2 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
PIN - 682031

OTHER PRESENT:

SR.PP-SRI.RENJIT GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
31.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 filed by the sole accused in Crime No.476/2023 of Cheemeni Police Station, Kasargod District registered under Section 354A(1)(i) of IPC, and Sections 10, 9f and 9l of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The prosecution allegation is that, the petitioner, on two occasions prior to Nabidinam of the year, 2023, caught hold on the breast of the victim girl, who is aged 12 years, and thereby committed the offences as alleged.

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

4. Learned Public Prosecutor opposed the bail application.

5. Learned counsel for the petitioner would submit that, the petitioner is innocent of this crime, and it is an offshoot of the factional fight between AP faction and EP faction of sunni muslims in Pattoli Subulussalam Madrassa. The petitioner is the

Khasi of that mosque, and he belongs to AP faction, and the father of the victim girl is the leader of the EP faction. Disputes were pending between these two factions, over the administration of the madrassa. There were 26 students studying in the madrassa, and so far, there were no complaints against the petitioner. The date of incident also is not specifically stated in the complaint. The crime was registered only on 12/10/2023. So learned counsel for the petitioner would submit that, custodial interrogation of the petitioner is not necessary, and the petitioner is ready to abide by any conditions, imposed by this Court.

6. Learned Public Prosecutor on instructions submitted that, the investigation has progressed, substantially and no criminal antecedents are reported against the petitioner.

7. Considering the factual situations, as stated above and the factional dispute alleged between the petitioner and the father of the victim girl, this Court is inclined to allow this petition on the following terms:-

(i) Petitioner shall surrender before the Investigating Officer on or before 12/2/2024, and subject himself for interrogation. The Investigating Officer can collect all the

materials/evidence within the reach of the petitioner, which are relevant for the purpose of investigation.

(ii) In event of arrest, the petitioner shall be released on bail on executing bond for Rs.50,000/- (Rupees fifty thousand only), with two solvent sureties each for the like sum to the satisfaction of the arresting officer.

(iii) Thereafter, the petitioner shall appear before the Investigating Officer as and when directed.

(iv) The petitioner shall not contact or intimidate the victim or her family members, either directly or indirectly.

(v) The petitioner shall not influence or intimidate the witnesses, or tamper with the evidence;

(vi) Petitioner shall not commit any offence, while on bail.

In case of violation of the bail conditions, the trial court is empowered to cancel the bail, in accordance with law.

Sd/-

SOPHY THOMAS
JUDGE

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