

Joshua vs State Of Kerala on 27 February, 2025

Author: P.V.Kunhikrishnan

Bench: P.V.Kunhikrishnan

2025:KER:16443

BAIL APPL. NO.2740 OF 2025

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 27TH DAY OF FEBRUARY 2025 / 8TH PHALGUNA, 1946

BAIL APPL. NO. 2740 OF 2025

CRIME NO.1645/2024 OF North Paravur Police Station, Ernakulam

AGAINST THE ORDER/JUDGMENT DATED IN Bail Appl. NO.1372

OF 2025 OF HIGH COURT OF KERALA

PETITIONER/S:

JOSHUA
AGED 24 YEARS
S/O ANIDAS, KODUMULAYIL, PADINJARETHIL, MELPADAM,
VEEYAPURAM PO, ALAPPUZHA., PIN - 690514

BY ADVS.
B.SIBI
KRISHNA S.
SUNI KARUNAKARAN

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF
KERALA, PIN - 682031
- 2 THE STATION HOUSE OFFICER,
NORTH PARAVUR POLICE STATION, NORTH PARAVUR PO,
ERNAKULAM DISTRICT., PIN - 683513

3 THE STATION HOUSE OFFICER,
VEEYAPURAM POLICE STATION, VEEYAPURAM PO,
ALAPPUZHA DISTRICT., PIN - 690514

2025:KER:16443

BAIL APPL. NO.2740 OF 2025

2

BY ADV.
SRI.NOUSHAD.K.A, SR PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
27.02.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

2025:KER:16443

BAIL APPL. NO.2740 OF 2025

3

P.V.KUNHIKRISHNAN, J

B.A.No.2740 of 2025

Dated this the 27th day of February, 2025

ORDER

This Bail Application is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS).

2. Petitioner is the accused in Crime No.1645/2024 of North Paravur Police Station. The above case is registered alleging offences punishable under Section 75(i)(5) of Bhartiya Nyaya Sanhita (BNS), 2023, Section 75 of Juvenile Justice (Care & Protection of Child) Act and Section 8 r/w 7 of Protection of Children from the Sexual Offences Act.

3. The prosecution case is that; during the month of January 2024, the petitioner had touched the breast of the minor victim with sexual intention and had beaten with a stick and caused burn injury with cigarette in a rented house at North Paravur.

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

2025:KER:16443 BAIL APPL. NO.2740 OF 2025

5. The counsel for the petitioner submitted that, the petitioner is in custody from 16.01.2025. The counsel submitted that the petitioner is ready to abide by any conditions, if this Court grants him bail.

6. Public Prosecutor opposed the bail application.

7. This Court considered the contention of the petitioner and the Public Prosecutor. It is true that the allegation against the petitioner is very serious. But, the fact remains that the petitioner is in custody from 16.01.2025. The maximum punishment that can be imposed for the offences alleged are below seven years. Considering the facts and circumstances of the case, I think, the petitioner can be released on bail after imposing stringent conditions. There can be a direction to the petitioner to appear before the Investigating Officer on all Mondays at 10:00am., till final report is filed.

8. 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 2025:KER:16443 BAIL APPL. NO.2740 OF 2025 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.

9. Moreover, in Jalaluddin Khan v. Union of India [2024 KHC 6431], the Hon'ble Supreme Court observed that:

"21. Before we part with the Judgment, we must mention here that the Special Court and the High Court did not consider the material in the charge sheet objectively.

Perhaps the focus was more on the
activities of PFI, and therefore, the

appellant's case could not be properly appreciated. When a case is made out for a grant of bail, the Courts should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in 2025:KER:16443 BAIL APPL. NO.2740 OF 2025 accordance with the law. "Bail is the rule and jail is an exception" is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Art.21 of our Constitution." (underline supplied)

10. In Manish Sisodia v. Directorate of Enforcement [2024 KHC 6426], also the Hon'ble Supreme Court observed that:

"53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well - settled principle of law that bail is not to be 2025:KER:16443 BAIL APPL. NO.2740 OF 2025 withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts

attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non - grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception".

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 directions:

1. Petitioner shall be released on bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent 2025:KER:16443 BAIL APPL. NO.2740 OF 2025 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 her from disclosing such facts to the Court or to any police officer.

3. Petitioner shall not leave India without permission of the jurisdictional Court.

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 appear before the Investigating Officer on all Mondays at 10:00am., till final report is filed.

2025:KER:16443 BAIL APPL. NO.2740 OF 2025

6. 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. The prosecution and the victim are at liberty to approach the jurisdictional court to cancel the bail, if there is any violation of the above conditions.

Sd/-

P.V.KUNHIKRISHNAN JUDGE SSG