

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 21ST DAY OF OCTOBER 2022 / 29TH ASWINA, 1944

BAIL APPL. NO. 7970 OF 2022

**AGAINST THE ORDER/JUDGMENTSC 418/2022 OF FAST TRACK SPECIAL COURT,
KATTAPPANA (POCSO)**

PETITIONER/S:

XXXXXXXXXX
XXXXXXXXXX XXXXXXXXXXXX
BY ADVS.
C.S.MANILAL
S.NIDHEESH

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN
- 682031
- 2 XXX XXXX XXXX
XXXX XXXX
BY ADV PUBLIC PROSECUTOR

OTHER PRESENT:

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PP SRI.NOUSHAD K.A

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21.10.2022,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

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B.A.No.7970 of 2022

Dated this the 21st day of October, 2022

ORDER

This is an application for regular bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. Petitioner is the accused in Crime No.341/2022 of the Santhanpara Police Station, Idukki now pending consideration as SC No.418/2022 of Fast Track Special Court, Kattpana(POCSO). The offences alleged against the petitioner are under Sections 354(B), 376(3), 376(2)(f) (n), 328 and 506(i) of the Indian Penal Code, 1860 and Section 3(a) r/w. Section 4(2), 5(n)(l) and Sections, 6, 7, 8, Section 9(m)(n) r/w Section 10, Section 11(5) r/w Section 12 of the Protection of Children from Sexual Offences Act, 2012 apart from Section 67(B) of the Information Technology Act, 2000.

3. According to the prosecution, the accused, who is an uncle of the victim committed penetrative sexual assault on her from 12.11.2016 onwards till 24.03.2022 and even photographed and videographed her nude picture and transmitted it through whatsapp and thereby committed the offences alleged.

4. Sri.C.S.Manilal, learned Counsel for the petitioner vehemently contended that the entire prosecution allegations are false and the incident as alleged had not occurred. It was submitted that

petitioner has been arrayed as an accused with some ulterior motives and that as he has been in custody since 17.09.2022, the continued detention is not essential. It was also submitted that petitioner is willing to abide by any conditions that may be imposed by this Court.

5. Sri.K.A.Noushad, learned Public Prosecutor contended that the allegations against the petitioner are serious in nature and that being a close relative of the victim and having committed the offences for a long period of time, petitioner ought not to be released on bail.

6. I have considered the rival contentions and have perused the documents.

The allegations against the petitioner are serious in nature and aggravated penetrative sexual assault is alleged to have been continued from 2016 onwards, at a time when the victim was only 10 years old. Considering the nature of allegations and heinousness of the time, apart from the close relationship of the accused with the victim, I am of the view that this is not a fit case where petitioner can be released on bail. Accordingly, I dismiss this bail application.

**BECHU KURIAN THOMAS
JUDGE**

jm/