

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 30TH DAY OF NOVEMBER 2022 / 9TH AGRAHAYANA,

1944

BAIL APPL. NO. 9443 OF 2022

AGAINST THE ORDER/JUDGMENTSC 631/2022 OF SPECIAL COURT UNDER

POCSO ACT, IDUKKI

[CRIME NO.530/2022 OF MARAYOOR POLICE STATION, IDUKKI

DISTRICT]

PETITIONER/ACCUSED :

AJIL

AGED 25 YEARS

MANNAMKANDAM, CHILLITHODU P.O.,

IDUKKI DISTRICT

PIN - 685561

BY ADV V.VISAL AJAYAN

RESPONDENT/STATE :

STATE OF KERALA

REPRESENTED BY PUBLIC PROSECUTOR,

HIGH COURT OF KERALA, PIN - 682031.

PP SMT.M.K PUSHPALATHA

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.11.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

BECHU KURIAN THOMAS, J

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B.A.No.9443 of 2022

.....

Dated this the 30th day of November, 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.530 of 2022 of Marayoor Police Station, Idukki District, registered for the offences punishable under Sections 354B, 376(2)(n), and 450 of the Indian Penal Code, 1860 apart from Sections 51, 63, 4 r/w Section 15 of the Protection of Children from Sexual Offences Act, 2012 and also under Sections 67A, 67B of the Information Technology Act, 2000.
3. The prosecution case is that, from March 2021 onwards, the accused raped the victim repeatedly and thereby committed the offences alleged.
4. Sri.V.Visal Ajayan, the learned counsel for the petitioner, submitted that the prosecution allegations are false and that the incident as alleged had never occurred. According to the counsel, the victim has now attained

majority and that even if the entire prosecution allegations are assumed to be true, still it can only make out a case of a consensual relationship. It was further submitted that petitioner has been in custody since 15.09.2022 and that since the final report having been filed, further detention ought not be permitted.

5. Smt.M.K.Pushpalatha, the learned Public Prosecutor, opposed the grant of bail and submitted that the allegations are serious in nature and that petitioner is alleged to have raped the victim, repeatedly, and therefore, petitioner ought not be released on bail.
6. I have considered the rival contentions. Petitioner is a young man of 25 years and he was arrested on 15.09.2022. The contention of the petitioner that there was a relationship between the petitioner and the victim, cannot be completely ignored, but of course during her minority. The victim has now attained the age of majority.
7. Having regard to the fact that the final report has already been filed and the case is now pending consideration as S.C.No.631/2022 before the Special Court under POCSO

ACT and Children's Act, Thodupuzha, now transferred to the Special Court for POCSO Cases at Marayoor, I am of the view that the continued detention of the petitioner is not required in the circumstances of the case. Therefore, the petitioner is entitled to be released on bail.

8. In the result, this application is allowed 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 co-operate with the trial of the case.
- (c) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he attempt to tamper with the evidence.
- (d) Petitioner shall not enter into the jurisdictional limits of Marayoor Police Station, except for the purpose of appearing in the trial.
- (e) Petitioner shall not commit any similar offences

while he is on bail.

(f) Petitioner shall not leave the country until
conclusion of the trial.

9. 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**

AMV/30/11/2022