

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 7TH DAY OF OCTOBER 2022 / 15TH ASWINA, 1944

BAIL APPL. NO. 7688 OF 2022

CRIME NO.824/2022 OF Panangad Police Station, Ernakulam

PETITIONER/ ACCUSED NO.1 :

NIBIN VARGHEESE,
AGED 29 YEARS,
S/O VARGHEESE, PANIKULANGARA HOUSE,
AIROOR P. O. ERNAKULAM,
PIN - 689 611

BY ADV N.SATHEESH

RESPONDENT :

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682 031

SRI.NOUSHAD K.A., PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
07.10.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

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B.A.No.7688 of 2022

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Dated this the 7th day of October, 2022

ORDER

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

2. Petitioner is the first accused in Crime No.824 of 2022 of Panangad Police Station, Ernakulam alleging offences punishable under Sections 354A(1)(ii), 354D(1)(ii), 511, 372 r/w Section 34 of the Indian Penal Code, 1860, Section 8 r/w Section 7, Section 12 r/w Section 11(v) and Section 16 of the Protection of Children from Sexual Offences Act, 2012 apart from Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 66(E) of the Information Technology Act, 2000.

3. According to the prosecution, during the month of April 2022, petitioner who is the first accused with the consent and connivance of the 2nd accused, committed sexual assault on the minor victim aged 17 years and thereby committed the offences alleged against him.

4. Sri.Satheesh, 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 submitted that the main allegation is against the 2nd accused who is none other than the mother of

the victim and only a minor role is attributed to the petitioner compared to the other allegations.

5. Sri.Noushad K.A., the learned Public Prosecutor opposed the grant of bail and contended that the release of petitioner on bail, at this juncture would cause prejudice to the investigation, especially since the 3rd accused has not yet been arrested.

6. I have considered the rival contentions. The allegations against the petitioner is that on a day in the month of April, 2022, petitioner hugged the victim, with the encouragement of the 2nd accused. Petitioner was arrested on 23.08.2022 and has been in custody since then. Taking note of the nature of allegations against the petitioner, I am of the view that continued detention would not essential for the purpose of investigation.

7. Accordingly, I allow this bail application 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 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