

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 2<sup>ND</sup> DAY OF SEPTEMBER 2022 / 11TH BHADRA, 1944

BAIL APPL. NO. 4713 OF 2022

CRIME NO.1558/2021 OF Kunnathunadu Police Station, Ernakulam  
AGAINST THE ORDER/JUDGMENTSC 281/2022 OF FAST TRACK SPECIAL COURT,  
PERUMBAVOOR

PETITIONER/S:

XXXXXXXXXXXX  
XXXXXXXXXXXX XXXXXXXXXXXX  
BY ADVS.  
P.A.MOHAMMED ASLAM  
SHAHIN BADUSHA  
E.B.THAJUDDEEN  
MOHAMMED MUBARAK A.I.  
SARATH SASI  
P.SANJAY(K/000381/1992)

RESPONDENT/S:

- 1 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA,  
PIN - 682031
- 2 XXXX ( SOUGHT TO BE IMPEADED )  
XXXX ( SOUGHT TO BE IMPEADED )  
BY ADV ARUN

SMT.M.K.PUSHPALATHA

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
02.09.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**BECHU KURIAN THOMAS, J.**

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**B.A.NO. 4713 of 2022**  
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**Dated this the 2<sup>nd</sup> day of September, 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. 1558 of 2021 of Kunnathunadu Police Station, Ernakulam District, alleging offences under Sections 376(2)(n), 376(3), 376AB r/w Section 506 of the Indian Penal Code, 1860 apart from Section along with sections 4(2) r/w Section 3(a), Section 6 r/w Section 5(i), (m), (n), Section 10 r/w Section 9(i)(m)(n) of the Protection of Children from Sexual Offences Act, 2012 and Section 66E of the Information Technology Act.

3. According to the prosecution, the petitioner, who is the stepfather of the victim girl aged 12 years, repeatedly committed penetrative sexual assault on the minor and took photographs of her, while she was changing her dress on several occasions and thereby committed the offences alleged.

4. Sri.P.Sanjay, the learned counsel for the petitioner duly instructed by Adv.Mohammed Aslam submitted that the allegations against the petitioner are totally false and that incident as alleged had not occurred. It was further pointed out that the victim had made the

allegations for more reasons than one. It was pointed out that the victim was unhappy about the relationship between the petitioner and her mother and when petitioner reprimanded the victim for her relationship with another boy, she raised the false allegations in a bid to attack the petitioner.

5. Smt.M.K.Pushpalatha, the learned Public Prosecutor submitted that the medical report of the victim tallies with the allegations and that since the petitioner is the stepfather of the victim who ought to have protected her, and he himself having indulged in such a heinous crime, bail ought not to be granted, even though final report was filed as early as on 05-03-2022 and the petitioner had been in custody from 05-12 2021.

6. The victim was served with notice through the S.H.O on 05-07-2022 and she has entered appearance through learned counsel Sri.K.P.Arun. An affidavit has been filed by the mother, on behalf of the victim stating that the allegations were raised due to her frustration and anger against petitioner for scolding her and also because of her irritation regarding relationship between her mother and the petitioner.

7. I have considered the rival contentions and I have perused the statement of the victim as well as the medical records.

8. The petitioner was arrested on 05-12-2021 and has been in custody since then. Though the allegations levelled against the petitioner are serious in nature, considering the long period of detention, as well as the affidavit of the victim filed through her mother, I am of the view that the continued detention of the petitioner may not be essential and that he can be released on bail on strict conditions.

In the result, this application is allowed on the following conditions:-

*(i) Petitioner shall be released on bail on his 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.*

*(ii) Petitioner shall not enter into the jurisdictional limits of Ernakulam District, except for the purpose of trial in S.C.No.281 of 2022 before the Additional Sessions Court(POCSO) Perumbavoor and S.C.No.141 of 2022 before the Additional Sessions Court (POCSO) Ernakulam, wherein also, petitioner is arrayed as an accused. .*

*(iii) Petitioner shall co-operate with the trial of the case.*

*(iv) Petitioner shall not intimidate or attempt to influence the witnesses or contact the victim.*

*(v) Petitioner shall not commit any offence while he is on bail.*

*(vi) 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**

AJM/2/9/22