

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 2<sup>ND</sup> DAY OF DECEMBER 2022 / 11TH AGRAHAYANA, 1944

BAIL APPL. NO. 9512 OF 2022

CRIME NO.1731/2022 OF SASTHAMCOTTA POLICE STATION, KOLLAM

PETITIONER/ ACCUSED :

SUBIN @ SACHU,  
AGED 22 YEARS, S/O.PRABOTH,  
LILLI MANDIRAM, PALLISSERIKKAL MURI,  
SASTHAMCOTTA VILLAGE, KOLLAM DISTRICT,  
PIN - 690 520

BY ADVS.  
K.SIJU  
S.ABHILASH  
ANJANA KANNATH

RESPONDENTS/ STATE :

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

2 STATION HOUSE OFFICER,  
SASTHAMCOTTA POLICE STATION,  
KOLLAM DISTRICT,  
PIN - 690 520

BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
02.12.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**BECHU KURIAN THOMAS, J.**

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**B.A.No.9512 of 2022**  
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Dated this the 2<sup>nd</sup> day of December, 2022

**ORDER**

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

2. Petitioner is the sole accused in Crime No.1731/2022 of Sasthamcotta Police Station, Kollam, alleging offences punishable under Sections 376(2)(n) and 323 of the Indian Penal Code, 1860 apart from Section 66E of the Information Technology Act, 2000.

3. According to the prosecution, the accused is alleged to have raped the victim repeatedly at different places and also at her house and physically assaulted the victim and after taking the photographs of their intimate relationship, showed it to the relatives of the victim and thereby committed the offences alleged.

4. Sri.Siju Kamalasanan, the learned counsel for the petitioner contended that the entire prosecution allegations are false and that the petitioner is innocent of the crime. It was also pointed out that the statement of the victim even if admitted in toto would not make out any of the offences alleged including the offence of rape. It was further submitted that petitioner is only a 22 year old young man, who was arrested on 18.11.2022 and that further detention is not essential

considering the circumstances of the case.

5. Sri.Noushad K.A., the learned Public Prosecutor opposed the grant of bail and submitted that the allegations are serious and that if the petitioner is released on bail, at this juncture, it would cause prejudice to the investigation.

6. I have considered the rival contentions and have perused the statement of the victim. As rightly contended by the learned counsel for the petitioner, prima facie, I am of the view that even though there are instances of sexual relationship alleged, none of the circumstances indicate that the physical relationship was without consent or under force. Petitioner is only 22 years in age and the victim is also 22 years. Prima facie, the relationship between the petitioner and the victim is indicative of a consensual relationship. Hence, considering the period of detention already undergone from 18.11.2022 onwards, I am of the view that further detention is not essential.

7. Accordingly, I allow this 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.

The observations in this order are confined solely for this bail application and shall not prejudice the trial in any manner.

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