

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 12TH DAY OF MAY 2020 / 22ND VAISAKHA, 1942

BA NO.2449 OF 2020

Crime No 23/2020 of the Ernakulam Central Police Station, Ernakulam district

Petitioners/ Accused :-

Safarsha, aged 32 years, Safarmanzil, Muttingal Road, School Bus Stop,
Kumbalam, Panangad, Ernakulam City, Kerala

By Adv Sri Manoj Kumar (Chelakkadan)

Respondents/State & Complainant:-

1. State of Kerala represented by the Public Prosecutor,
High Court of Kerala, Ernakulam, Kochi – 682 031.
2. The Station House Officer, Ernakulam Central Police Station,
Ernakulam District.

By P.P. Sri.Ajith Murali & Santhosh Peter(Sr)

**THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 12.05.2020,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ORDER

This Bail Application filed under Section 439 of Criminal Procedure Code was heard through Video Conference.

2. The petitioner is the accused in Crime No. 23 of 2020 of the Ernakulam Central Police Station registered alleging offences punishable under Sections 364, 366A, 376, 370 and 302 of the Indian Penal Code and Sections 5,6,7 of the Protection of Children from Sexual Offences Act. The petitioner was arrested on 08.01.2020 and he is in custody.

3. The prosecution case is that a minor girl, aged 17 years, was kidnapped by the petitioner herein and was taken to another place and committed rape on her and thereafter murdered the minor girl. The petitioner was arrested on 08.01.2020.

4. The learned counsel for the petitioner submitted that, the petitioner was arrested on 08.01.2020 and he is in custody from that date onwards. He submitted that final report has not

been filed in this case.

5. The learned Public Prosecutor submitted, that final report has not been filed in this case and the petitioner was arrested on 08.01.2020; now 90 days over.

6. I have considered the contentions raised by the learned counsel for the petitioner as well as the learned Public Prosecutor. I am constrained to say that, in a serious case like this, the Investigating Officer was not able to complete the investigation within the statutory period of 90 days. A minor girl was kidnapped and brutally raped and murdered by the accused, is the allegation. Even in such a case the Investigating Officer was not able to complete the investigation within 90 days.

7. Admittedly, the petitioner is in custody from 08.01.2020; now 90 days over. The petitioner is entitled to statutory bail under Section 167 of the Code of Criminal Procedure. Therefore, this Bail Application is allowed with the following directions:

1. The Superintendent of Jail concerned where

the petitioner is incarcerated is directed to release the petitioner on bail on executing a self bond ensuring that he will appear before the Court concerned as and when required if he is not in detention in any other case. It is further directed that the Superintendent of Jail should get the bail bond from the petitioner as stipulated in Section 441 Cr.P.C.

2. The Superintendent of Jail concerned shall also get the phone number and the address at which the petitioner would be residing after his release.

3. The Superintendent of Jail concerned, immediately after release of the petitioner will forthwith forward the bail bond obtained from the petitioner to the jurisdictional Court.

4. The petitioner immediately after release from the prison, report before the Station House Officer of the Jurisdictional Police Station and shall furnish his phone number and the place where he is going to reside. The Station House Officer concerned shall keep a vigil on the whereabouts of the petitioner and shall ensure that the petitioner does not violate the terms of the undertaking.

5. The petitioner shall appear before the Investigating Officer on all Mondays' and Fridays' and also as and when required by the Investigating Officer. The petitioner shall co-operate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with the evidence.

6. Except for appearing before the

Investigating Officer for the purpose mentioned above, the petitioner shall not enter the jurisdictional limit of the Ernakulam Central Police Station till a final report is filed in Crime No.23 of 2020.

7. The petitioner shall within one week from the commencement of the functioning of the jurisdictional court, if the court is not functioning at present, execute a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

8. The petitioner shall strictly abide by the various guidelines issued by the State Government and Central Government with respect to keeping of social distancing and other directions in the wake of declared

lock-down.

9. If any of the above conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance with law, even though the bail is granted by this Court.

P.V.KUNHIKRISHNAN, JUDGE

pkk