

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 13TH DAY OF MAY 2020 / 23RD VAISAKHA, 1942

BA NO.2505 OF 2020

(Crime No: 2582/2019 of Cherthala Police Station,
Alappuzha District)

Petitioner/Accused :-

- 1 Rejimon, aged 46,
S/o. Raveendrann, Puthuvalnikarthu House,
Thaneermukkom Panchayat ward- 3, Varanad P.O,
Cherthala Taluk, Alappuzha-688 543.

By Adv. Sri. Manu Roy
Sri. Devadas H. Mallan

Respondents/ Complainants:-

1. State of Kerala, Represented by Public Prosecutor,
High Court of Kerala, Ernakulam, Kochi- 682 031.
2. The Station House Officer,
Cherthala Police Station, Alappuzha.

By P.P. Sri.B.Jayasurya (Sr) & Sri. C.K.Prasad

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON
13.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J

B.A.No.2505 of 2020

Dated this the 13th day of May, 2020

O R D E R

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

2. Petitioner is the accused in Crime No.2582 of 2019 of Cherthala Police Station. The above case is registered against the petitioner alleging offences punishable under Sections 354 and 354-A(i)(iii) of IPC, Section 10 r/w 9(m)(n)(I) and Section 12 r/w 11(iii) of Protection of Children from Sexual Offences Act and Section 75 of the Juvenile Justice Act. Petitioner was arrested on 10.4.2020 and he is in custody.

3. The prosecution case is that on 24.2.2015 at about 6.30 pm, the accused touched the chest and stomach of the minor girl and further on 12.9.2019 at about 2.30 pm, the petitioner showed the porn videos in his mobile phone to the minor girl. Thereafter, a complaint was filed in September, 2019.

4. The counsel for the petitioner submitted that the alleged

incident happened in 2015 and the complaint is filed only in 2020. He also submitted that he is in custody from 10.4.2020 onwards. Moreover, he also submitted that the victim girl already given a statement under Section 164 Cr.P.C before the Magistrate denying the incident.

5. The learned Public Prosecutor submitted that since the petitioner is in custody from 10.4.2020 onwards, he can be released on bail with stringent conditions.

6. In the light of the facts and circumstances of the case and also considering the fact that the petitioner is in custody from 10.4.2020 onwards, I think this bail application can be allowed.

7. Moreover, considering the need to follow social distancing norms inside prisons so as to avert the spread of the novel Corona Virus Pandemic, the Hon'ble Supreme Court in **Re: Contagion of COVID-19 Virus In Prisons case (Suo Motu Writ Petition(C) No.1 of 2020)** and a Full Bench of this Court in **W.P(C)No.9400 of 2020** issued various salutary directions for minimizing the number of inmates inside prisons.

8. Moreover, it is a well accepted principle that the bail is the rule and the jail is the exception. The Hon'ble Supreme Court in

Chidambaram. P v Directorate of Enforcement (2019 (16) SCALE 870), after considering all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial.

9. Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, 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 they are going to reside. The Station House Officer concerned shall keep a vigil on the whereabouts of the petitioner and shall ensure that the petitioner do not violate the terms of the undertaking.

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

6. 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.

7. 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.

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

**P.V.KUNHIKRISHNAN
JUDGE**

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