

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 08TH DAY OF MAY, 2020 / 18TH VAISAKHA, 1942

B.A. No.2664 /2020

(Seeking regular bail in Crime No. 274 of 2020 of the
Pudukkad Police Station, Pending before the Addl. Sessions
Court, Thrissur, Thrissur District)

Petitioner/ Sole Accused :-

Praneesh @ Manikkam, aged 27, S/o.Prakasan, Kaimaparambil
House, Chittissery P.O., Thrissur Taluk, Thrissur District

Adv.Bitto.N.L.

Respondent/State of Kerala:-

1. The State of Kerala, rep. by the public Prosecutor High
court of Kerala at Ernakulam.

2. Sub Inspector of Police, Pudukkad Police station, Pudukkad
P.O., Thrissur district, 680301

SRI. AJITH MURALI, PP

SRI. SANTHOSH PETER SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
08.05.2020, 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 sole accused in Crime No.274 of 2020 of Pudukkad Police Station registered alleging offences punishable under Sections 376(2)(n) of the Indian Penal Code and Sections 5(j)(i)(1) of the Protection of Children From Sexual Offences Act, 2012. The Petitioner was arrested on 25.03.2020 and he is in custody.

3. The prosecution case is that the petitioner had committed sexual intercourse with the minor victim girl aged 17 years and 8 months old.

4. The learned counsel for the petitioner submitted that the petitioner and the victim girl were in love affair and both of their families decided to conduct marriage of the petitioner and the victim girl immediately after the victim girl attain majority. He also submitted that the petitioner is in custody from 25.03.2020 onwards.

5. The learned Public Prosecutor opposed the Bail Application. He submitted that the petitioner committed rape on a minor girl. But, he admitted that, in the statement of the victim girl before the Police and before the jurisdictional Magistrate Court, it is admitted that, there was a love affair between the petitioner and the victim girl.

6. After hearing both sides and considering the facts and circumstances of the case especially in the light of the fact that the petitioner is in custody from 25.03.2020 onwards, I am of the view that this Bail application can be allowed. It is a fact to be noted that the victim girl completed 17 years and 8 months at the time of the alleged incident. It is submitted that there was sexual intercourse on two occasions from the house of the victim. It is also an admitted fact that there was a love affair between the petitioner and the victim girl. Considering the entire facts and circumstances of the case, 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 **Writ Petition(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 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 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 with law, even though the bail is granted by this Court.

P.V.KUNHIKRISHNAN, JUDGE

pkk