

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 05TH DAY OF MAY 2020 / 15TH VAISAKHA, 1942

BA TMP.NO.200 OF 2020

[ Crime No.216/2020 of Kadinamkulam police Station]

Petitioner/ 2 Accused:

Vineesh , aged 22 years  
S/o Radhakrishan Nair Akarathum vilakam, Edayavanam  
Kudavoor ,Melthonnakkal Village Trivandrum 695317

By Adv. M.R Sarin Panicker

RESPONDENTS:

- 1 State represented by  
Represented by the Public Prosecutor,  
High Court of Kerala, Ernakulam.682031
- 2 The Sub Inspector of police Kadinamkulam Police Station  
Trivandrum Represented by the Public Prosecutor, 695303

By P.P.SRI.AJITH MURALI & SANTHOSH PETER(SR)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 05.05.2020,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J**

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B.A.TMP No. 200 of 2020  
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Dated this the 5<sup>th</sup> 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 2<sup>nd</sup> accused in Crime No.216 of 2020 of Kadinamkulam Police Station registered alleging offences punishable under Sections 366(A), 368, 370, 376(ii)(n) of IPC and Section 3(a), 4,5,6,16 read with Section 17 of the Protection of Children from Sexual Offences Act, 2012 (for short, POCSO Act). Petitioner was arrested on 7.4.2020 and he is in custody.

3.The prosecution case is that on 5.4.2020 at about 10.00 PM, the 1<sup>st</sup> accused kidnapped the minor

victim girl with an intention for sexual abuse. It is alleged that, with the knowledge of the 2<sup>nd</sup> accused, the 1<sup>st</sup> accused committed rape on the minor victim from the residence of the 2<sup>nd</sup> accused. Hence, the case is registered.

4. The counsel for the petitioner submitted that, there is no serious allegations against the petitioner and the 1<sup>st</sup> accused committed the offence. He also submitted that the accused is in custody from 7.4.2020 onwards. He is ready to abide any conditions if this court grant bail.

6. After hearing both sides, according to me, this is not a fit case, in which the bail can be granted. The allegation against the petitioner includes kidnapping and sexual abuse of a minor girl. The petitioner is in custody only from 7.4.2020. Considering the nature of the accusation and severity of the punishment in the case of conviction and the larger interest of the society,

the release of the petitioner at this stage will be detrimental to the prosecution.

7. Moreover, the jurisdiction to grant bail has to be exercised on the well settled principles laid down by the Hon'ble Supreme Court in **Chidambaram P v Central Bureau of Investigation (AIR 2019 SC 5272)** the following factors are to be taken into consideration while considering the application for bail.

(i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;

(ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;

(iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;

(iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused;

(v) larger interest of the public or the State and similar other considerations.

It is true that there is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be decided on the basis of the facts and circumstances of that case. In the light of the general principles laid down in the above judgment and considering the facts and circumstances of this case, I am of the opinion that this is not a fit case in which the petitioner can be released on bail. Hence this Bail Application is dismissed.

**P.V.KUNHIKRISHNAN,**

**JUDGE**