

IN THE COURT OF SESSIONS KOTTAYAM DIVISION

Present: Sri. Sujith K. N., Addl. Sessions Judge – I

Tuesday, 18th day of October, 2022
26th, Ashwina 1944

Crl. M.P. No. 2340/2022

(Crime No.1547/2022 of the Ettumanoor Police Station)

Petitioner/ Accused:

Sanju Ouseph, Aged 20 years,
S/o Ouseph, Arimbookkaran House,
Veliyathunadu Kara, Karumalloor Village,
Ernakulam.

By Adv. Sri. C.P Tenny

Respondents:

1. State of Kerala, Represented by
Inspector of Police,
Ettumanoor Police Station.
2. Government Pleader, Additional District and
Sessions Court, POCSO, Kottayam.

By Spl. Public Prosecutor Sri. M.N Pushkaran

Petition filed under Section 439 of the Code of Criminal
Procedure.

This Crl.M.P having been finally heard on 17.10.2022 and
the Court on 18.10.2022 passed the following :-

O R D E R

In the instant Criminal M.P, which is patently preferred as
ordained u/s. 439 of the Code of Criminal Procedure, 1973, the
sole accused in Crime No. 1547/2022 of the Police Station,

Ettumanoor, is seeking regular bail. As is vivid, the offences alleged against him are punishable u/ss. 363, 35-A(1)(i), 354-D(1)(ii), 376(2)(n) of the Indian Penal Code, and Section 4 r/w.3(a), 6 r/w.5(l) of the Protection of Children from Sexual Offences Act, 2012 .

2. Sans any prolixity, the prosecution case in nutshell is as follows:-

The victim of the instant crime is a minor girl, aged 17 years. Guided by the mischievous intention to sexually exploit the victim girl, the petitioner established contacts with her through an electronic platform, named Instagram, and thereafter, he put forth a promise to marry her to win her confidence further. After that, on 02.09.2022, at around 9.30, he kidnapped the victim girl from her lawful guardianship and thereafter, carried her on his scooter to a lodge named 'Vaishnavu ' situated at a place 'Thavalkkuzhy' of the Grama Panchayat, Ettumanoor. Sequel to the said transaction, after forcefully disrobing the victim girl, he committed repeated penetrative sexual assaults on her.

3. As is reflected from the records, the petitioner was arrested on 05.09.2022 and now he is in judicial custody.

4. **The version of the petitioner:** - The learned counsel for the petitioner insistently urged that, the entire prosecution allegation does not carry any scintilla of truth. He added, the petitioner is innocent of the allegations levelled against him and he is falsely implicated in this case. He further argued that, the investigation of the case is practically completed, and therefore, his further detention is unwarranted. Also that, the petitioner is ready to co-operate with the investigation and to abide by any condition imposed by this Court.

5. **The version of the prosecution:** - Ardently opposing the bail application, the learned Special Public Prosecutor argued that, the allegations against the petitioner are so grave in nature. According to him, the investigation in the instant case is in progress and granting bail to the petitioner at this juncture will certainly obliterate the further progress of the investigation. He added, in every chance, if enlarged on bail, the petitioner may intimidate or influence the witnesses.

6. I have perused the Case Diary and also meticulously sifted through the entire documents tendered by

the parties. The statement of the victim contains serious allegations of the petitioner having committed illicit sexual intercourse with her.

7. The report of the Investigating Officer is that, if enlarged on bail, there is every chance for the petitioner to tamper with the evidence and to intimidate the victim or to influence the witnesses.

8. Incidentally, considering the law governing the field, it is well settled that, the following matters are to be considered while granting a bail to a person: -

- (i) whether there is any *prima facie* or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the charge;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being tampered with; and
- (viii) danger, of course, of justice being thwarted by grant of bail.

(See: - **Prahlad Singh Bhati v. NCT, Delhi (2001 (4) S.C.C 280).**

9. On the touchstone of above legal provisions, it is pellucid that, the allegations against the petitioner are of very serious nature. The victim of the incident is a minor and she had given clear statements against the petitioner before the Investigating Officer. The investigation in the case is at its nascent stage and hence, there is force in the contention of the learned Special Public Prosecutor that, if enlarged on bail, the petitioner will influence the witnesses and tamper with evidence. The likelihood of offence being repeated also cannot be discarded or disregarded. Ergo, I am not inclined to allow this petition at this stage.

In the result, the Criminal M.P is dismissed.

Dictated to the Confidential Assistant, transcribed and typed by her, revised and corrected by me and pronounced in open Court on this the 18th day of October, 2022.

Sd/-
Sujith. K.N
Addl. Sessions Judge-I

Copied by :
Compared by :

//True copy//

**Copy of Order in
Crl. M.P. No.2340/2022
Dated : 18.10.2022**