

**IN THE SPECIAL COURT FOR THE TRIAL OF OFFENCES AGAINST
CHILDREN (ADDITIONAL SESSIONS COURT-I), MANJERI.**

Present:- Smt.S.Nazeera, Addl. District and Sessions Judge-I, Manjeri

Tuesday, the 18th day of October, 2022

CRIMINAL MISCELLANEOUS PETITION No : 1991/2022

in

Crime No. 440/2022 of Kalpakanchery Police Station

Between:-

Noorudheen , Aged 43 years, S/o.Abdul Salam, Thaikattu House, Thozhannur East, Randathani.	}	<u>Petitioner</u> <u>Accused</u>
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And:-

State of Kerala : Rep. by the Station House Officer, Kalpakanchery Police Station.	}	<u>Respondent</u> <u>Complainant</u>
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This petition coming on this day for hearing before me in the presence of Sri.Thajmal Saleek.E.V, Advocate for the Petitioner and of the Special Public Prosecutor for the respondent, the Court passed the following:-

ORDER

This is the second bail application filed by the accused in Crime No.440/2022 of Kalpakanchery Police Station under section 439 of Cr.P.C.

2. The petitioner herein is alleged to have committed the offences punishable u/S.376(2)(f), 376(4)(3), 354(A)(1)(i), 506 of IPC and Sec. 5(n) r/w 6, 10 r/w 9(n), 9(l) of POCSO Act.

3. The prosecution allegation in brief is as follows: On a school opening day in June 2018 the accused being the father's brother of the victim minor girl aged 12 years had committed penetrative sexual assault at his house and prior to this incident he had sexually assaulted her by holding her body and had threatened her not to inform the matter to anybody else.

4. The petitioner/accused was arrested and remanded on 27-08-2022 and he is in judicial custody since then.

5. Notice was issued to the Special Public Prosecutor. The Investigating Officer filed report opposing the bail application with the following submissions: The statement of the victim u/S.164 Cr.P.C was recorded and statement of witnesses were recorded.

6. Notice was issued to the victim through her father. The mother of the victim filed affidavit stating that she has no objection in granting bail to the petitioner/accused.

7. The only point to be considered is whether regular bail can be granted at this stage?

8. Heard. Perused the records.

9. The Point: The victim girl is aged 12 years. The petitioner/accused is aged 43 years. The allegation against the petitioner/accused is that, he had committed penetrative sexual assault against the victim and had threatened her. According to the petitioner/accused, he is totally innocent to the charges levelled against him. It is

stated that the family of the victim has a property dispute with the accused which lead to enmity with the petitioner and this case is foisted without making any preliminary enquiry.

10. The statement of the victim u/S. 164 Cr.P.C is recorded and statement of witnesses were recorded. It appears that the major part of investigation is over. The affidavit filed by the mother of the victim shows that she has no objection in granting bail to the petitioner/accused. The charge sheet against the accused is filed. So even if the petitioner/accused is released on bail, there is nothing which will adversely affect the investigation. The petitioner/accused was already in judicial custody for 51 days. It appears that further detention of the petitioner/accused would not meet the ends of justice. Considering all these aspects, this court is inclined to enlarge the petitioner/accused on bail.

In the result, petition is allowed on the following conditions:

1. The petitioner/accused shall execute Bond for ₹50,000/- (Rupees Fifty Thousand Only), with two solvent sureties for the like sum each.
2. Petitioner/accused shall report before the Investigating Officer on all Saturday between 9.00 a.m and 11.00 a.m., till filing of the Final Report/Charge Sheet.
3. Petitioner/accused shall surrender his Passport before court or file affidavit, if he has no Passport.
4. Petitioner/accused shall not tamper with evidence or influence or intimidate victim or any other witnesses.

5. Petitioner/Accused shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
6. Petitioner/Accused shall not contact or attempt to contact the victim in any manner.
7. Petitioner/Accused shall not involve in any similar offence while on bail.
8. Petitioner/Accused shall not leave the State of Kerala without prior permission of the Court.
9. Petitioner/Accused shall co-operate with the investigation of the case.

Violation of any of the aforesaid conditions would result in cancellation of the bail suo-motu or on application by the Respondent.

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

Sd-
Special Judge/
Addl. District & Sessions Judge-I

//True Copy//

Special Judge/
Addl. District & Sessions Judge-I

Typed by :Shaini
Compared by : Vijayan

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Copy of Order in C.M.P. No. 1991/2022
Dated : 18-10-2022
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