

IN THE COURT OF FAST TRACK SPECIAL JUDGE, DEVIKULAM

Present: Sri. JOHNSON M.I , SPECIAL JUDGE

Friday, the 11th day of April, 2025/ 21st day of Chaithra, 1947.

CRIMINAL MP No. 193/2025

IN

SC No. 138/2025

(Crime No. 934/2024 of Santhanpara Police Station)

Petitioner: Sivakumar, aged 21/2024, S/o. Raja, Pooppara,
Idukki District.

Adv. Mamatha P.

Respondent: State of Kerala represented by the Inspector of Police,
Santhanpara Police Station.

Special Public Prosecutor (in-charge)

This petition coming on hearing 11/04/2025 before me in the presence of the counsel for the accused and Special Public Prosecutor (in-charge) and the Court on the same day passed the following :-

ORDER

1. Petitioner is the accused in the above case. This is an application for bail filed by the accused in the above case.

2. The offences alleged against accused are punishable under sections 75 (1)(I), 78 (1)(I) of BNS and 8 r/w 7, 11 (iv) r/w 12 of POCSO Act.

3. The prosecution case is that, since June 2024, the victim and her family have been residing in the Mudukkudi house in Pooppara. The accused has been harassing her by persistently asking her to leave her house with him. He followed the victim on her way to school and at the bus stop, caused distress. On one evening in September 2024, around 5 pm, near the Illippalam bridge in Senapathy, the accused arrived in an autorickshaw and attempted to forcibly make the victim board the vehicle. On another occasion, in the courtyard of the accused's aunt Umadevi's house in Pooppara, the accused grabbed the victim, pressed on her left breast and caused her pain. Further more, on December 11, 2024, the accused came to Senapathy School where the victim was studying and harassed her again. Thus, the accused alleged to have committed the offences punishable u/s 75 (1)(I), 78 (1)(I) of BNS & 8 r/w 7, 11 (iv) r/w 12 of POCSO Act.

4. The accused was arrested and produced before JFCM Court, Nedumkandom on 03/01/2025 and he is in judicial custody from that day onwards.

5. Copy of the above application was served to the investigating officer and Special Public Prosecutor (in-charge), Notice was issued to the victim in this case. On receipt of notice, victim and her parents appeared before this Court and seriously opposed the petition. The learned Special Public Prosecutor (in-charge) filed a detailed report objecting the bail application by contenting that, if the bail is granted it would be a great injustice. It is further stated that there are two other cases against the accused in which one is Cr.No.319/2023 u/s 5(1) and 6 of POCSO Act, Sec.9 of Prohibition of Child Marriage Act. 2006 and Sec.366 of IPC of Periyakulam Police Station in Tamilnadu State and the other is Cr. No.

693/2022 u/s 294(b), 324, 452, 308, 447, 502(ii), 34 IPC of Santhanpara Police Station.

6. I heard the learned counsel for the accused and Special Public Prosecutor (in-charge) as well as the victim.

7. In this case Final Report was filed. It is true that there are two other cases against the accused in which one is Cr.No. 319/2023 u/s 5(1) and 6 of POCSO Act, Sec.9 of Prohibition of Child Marriage Act. 2006 and Sec.366 of IPC of Periyakulam Police Station in Tamilnadu State and the other is Cr. No. 693/2022 u/s 294(b), 324, 452, 308, 447, 502(ii), 34 IPC of Santhanpara Police Station. It is true that the allegations are very serious in nature. But, it can be seen that the accused is in judicial custody from 03/01/2025 onwards and he is in judicial custody for more than 3 months. At this stage it is to be considered that at present there is no regular Special Public Prosecutor in this Court and trial cannot be started in the immediate future. Without conducting trial, detaining the accused in jail is not proper. Hence, I am of the view that bail can be granted to the accused with stringent conditions.

8. In the result, bail is granted to the accused on the following conditions.

- 1) The accused shall be released on bail on executing a bond of ₹. 50,000/- (Rs. Fifty thousand only) with two solvent sureties each for the like sum.
- 2) The accused shall not leave State of Kerala without permission of this Court.

- 3) The accused shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
- 4) The accused shall not intimidate or try to induce the witnesses in this case.
- 5) The accused shall not enter into the Panchayath in which the victim is residing.
- 6) The accused shall furnish his phone number and address at which he is going to reside to the investigating officer.
- 7) If any of the conditions is violated by the accused, bail will be cancelled.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 11th day of April, 2025.

**Sd/-
JOHNSON M.I
SPECIAL JUDGE.**

APPENDIX - NIL

**Sd/-
JOHNSON M.I
SPECIAL JUDGE.**