



2024:KER:21117

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SOPHY THOMAS

TUESDAY, THE 19TH DAY OF MARCH 2024 / 29TH PHALGUNA, 1945

BAIL APPL. NO. 1204 OF 2024

CRIME NO.1341/2023 OF ARUVIKKARA POLICE STATION,

Thiruvananthapuram

AGAINST THE ORDER/JUDGMENT DATED IN SC NO.2033 OF 2023 OF
ADDITIONAL DISTRICT COURT & SESSIONS COURT (ATROCITIES &
SEXUAL VIOLENCE AGAINST WOMEN &
CHILDREN), THIRUVANANTHAPURAM

PETITIONER/ACCUSED:

YYYY
AGED 37 YEARS
YYYYYYYYYYY
BY ADV M.R.SARIN

RESPONDENTS/DEFACTO COMPLAINANT/STATE:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031
- 2 XXXXXXXXXXXX
XXXXXXXXXXXX XXXXXXXXXXXX
SR.PP-SRI.VIPIN NARAYANAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
19.03.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



BA No.1204/2024

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SOPHY THOMAS, J

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Bail.Appl.No.1204 of 2024

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Dated this the 19th day of March, 2024

ORDER

This is an application for regular bail under Section 439 of CrPC filed by the sole accused in Crime No.1341/2023 of Aruvikkara Police Station, Thiruvananthapuram, registered under Sections 376(1), 376(2)(f), 376(2)(n), 376(3), 376 AB and 506(i) of IPC, Sections 4(2) r/w 3(a), 3(d), 6 r/w 5(l), 5(m), 5(n), 8 r/w 7 and 10 r/w 9(l), 9(m), 9(n) of POCSO Act and Section 67(B) of IT Act.

2. The Trial Court, as per order dated 16.12.2023 in CMP No.3240/2023, had dismissed the regular bail application of the petitioner finding that, considering the gravity of the offence, the petitioner was not eligible to be released on bail and he has to face trial as an under-trial prisoner. Later the petitioner moved this Court for regular bail, and as per order dated 11.06.2024 in BA No.11649/2023, this Court also rejected his application for regular bail, finding that the



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allegations are grave in nature, and the petitioner/accused has to face the trial as an under-trial prisoner. In that order, the trial court was directed to dispose SC No.2033/2023 within a period of six months from the date of framing of charge. There was a further direction that, if the charge was not framed yet, it has to be framed within one month from the date of that order.

3. Learned counsel for the petitioner filed this bail application (BA No.1204/2024) stating that, in spite of direction, the trial court did not frame charge within one month from the date of order in BA No.11649/2023. An explanation was called for from the trial court and as per report dated 11.03.2024, the trial court informed this Court that the order of this Court in BA No.1204/2024 was communicated to the trial court only on 16.02.2024. So this Court finds no negligence or latches from the part of the trial court in framing charge within one month from the date of order in BA No.11649/2023.

4. Heard learned counsel for the petitioner and learned Public Prosecutor.

5. Learned counsel for the petitioner would submit



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that, on going through Annexure A1 - Medical Report, it could be seen that hymen of the survivor girl was intact, though the allegation is that the petitioner committed penetrative sexual assault on her. So according to him, the prosecution allegations itself are liable to be disbelieved. All these matters are to be proved through evidence, and all such contentions taken up by the petitioner is left open to be decided after trial.

6. Since there is concurrent findings of the trial court, as well as of this Court, that considering the nature and gravity of the offence, the petitioner has to face the trial as an under-trial prisoner, just because of the fact that the trial court failed to frame charge within one month from the date of order in BA No.11649/2023, this bail application is not liable to be allowed. There is sufficient reason for the trial court for not framing charge within the time stipulated.

7. The Registry of this Court was directed to verify and report whether charge was framed in SC No.2033/2023 on 16.03.2023, as assured by the trial court in the report dated 11.03.2024. The Registry collected information over telephone and informed this Court that charge in SC No.2033/2023 was



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framed by the trial court on 16.03.2024. So there shall be a direction to the trial court to dispose SC No.2033/2023 within a period of six months from 16.03.2024.

With this direction, this bail application stands dismissed.

Sd/-

SOPHY THOMAS, JUDGE

ACR



BA No.1204/2024

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APPENDIX OF BAIL APPL. 1204/2024

PETITIONER ANNEXURES

- Annexure A1** THE TRUE COPY OF THE FINAL REPORT BEFORE THE ADDITIONAL SESSIONS COURT (POCSO), THIRUVANANTHAPURAM IN SC 2033/2023 IN CRIME NO 1341/2023 OF ARUVIKKARA POLICE STATION, THIRUVANANTHAPURAM RURAL
- Annexure A2** THE CERTIFIED COPY OF THE ORDER IN CMP 3240/2023 IN SC 2033/2023 OF ADDITIONAL SESSIONS JUDGE FOR THE TRIAL OF CASES RELATING TO ATROCITIES AND SEXUAL VIOLENCE AGAINST WOMEN AND CHILDREN, THIRUVANANTHAPURAM
- Annexure A3** PETITIONER THE TRUE COPY OF ORDER IN BAIL APPLICATION NO 11649/2023 PASSED BY THIS HONBLE HIGH COURT