



2023:KER:52304

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 1ST DAY OF SEPTEMBER 2023 / 10TH BHADRA, 1945

BAIL APPL. NO. 6644 OF 2023

CRIME NO.687 OF 2023 OF MATHILAKAM POLICE STATION, THRISSUR

PETITIONER/ACCUSED:

MAHEEN ALI

BY ADV NIREESH MATHEW

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, KOCHI, PIN - 682031

SRI.SANGEETHA RAJ N.R[PP]

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
01.09.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



ORDER

Dated this the 1st day of September, 2023

This application is filed u/s 438 of the Code of Criminal Procedure seeking pre-arrest bail.

2. The applicant is the accused in Crime No.687/2023 of Mathilakam Police Station, Thrissur. The offences alleged are punishable under Sections 342, 354, 363 and 376(2)(n) of the Indian Penal Code and Sections 5(l), 6, 7 and 8 of the Protection of Children from Sexual Offences Act.

3. The prosecution case, in short, is that the victim aged 17 years was in a relationship with the applicant, aged 18 years, for the last two years. On 09.04.2023 at about 12 p.m, the applicant kidnapped the victim, wrongfully restrained her and raped her at the residence of his friend. Thereafter on 15.07.2023 at about 14 hours, the applicant raped the victim at his residence.

4. I have heard Sri. Nireesh Mathew, the learned counsel for the applicant and Sri. Sangeetha Raj, the learned Public Prosecutor. Perused the case diary.



5. The learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the present case. The counsel further submitted that no materials are on record to connect the applicant with the alleged crime; hence, he is entitled to get bail. The learned Public Prosecutor, on the other hand, submitted that the alleged incident occurred as a part of the intentional criminal acts of the applicant, and if he is released on bail at this stage, it will affect the course of the investigation.

6. The reading of FIS would show that, the applicant who was aged 18 years and the victim who was aged 17 years, got acquainted through Instagram two years back and they were in romantic relationship. The FIS would further show that, on 09.04.2023, the victim voluntarily went along with the applicant to his friend's house. On 15.07.2023 also, the victim voluntarily went to the house of the applicant. An over all reading of the FIS shows that the alleged sexual act was consensual in nature. In the statement given by the victim under Section 164 of the Cr.PC, she has admitted that they had consensual sexual intercourse on several occasions. The applicant has no criminal antecedents. Considering the



allegations levelled against the applicant, his custodial interrogation does not appear to be necessary. For these reasons, it is a fit case where pre-arrest bail can be granted to the applicant.

In the result, the application is allowed on the following conditions:-

(i) The applicant shall be released on bail in the event of his arrest on executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the arresting officer/investigating officer, as the case may be.

(ii) The applicant shall fully cooperate with the investigation, including subjecting himself to the deemed police custody for discovery, if any, as and when demanded.

(iii) The applicant shall appear before the investigating officer between 10.00 a.m. and 11.00 a.m. every Saturday until further orders. He shall also appear before the investigating officer as and when required.

(iv) The applicant shall not commit any offence of a like nature while on bail.



(v) The applicant shall not attempt to contact any of the prosecution witnesses, directly or through any other person, or in any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

(vi) The applicant shall not leave the State of Kerala without the permission of the trial Court.

(vii) The application, if any, for deletion/modification of bail conditions or cancellation of bail on the grounds of violating the bail conditions shall be filed at the jurisdictional court.

Sd/-

DR. KAUSER EDAPPAGATH

JUDGE

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