

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

THURSDAY, THE 7TH DAY OF APRIL 2022 / 17TH CHAITHRA, 1944

BAIL APPL. NO. 2579 OF 2022

Crime No.48/2022 of Chirayinkeezhu Police Station

PETITIONER/ACCUSED:

SAINULABDEEN
AGED 68 YEARS, S/O ABOOBAKER, DARUL AMAN HOUSE, NEAR
MULATHALAKKAL KAVU TEMPLE, ANDOOR, KURAKKADA,
KUZHUVILAM, THIRUVANANTHAPURAM DISTRICT., PIN - 695104

BY ADV P.ANOOP (MULAVANA)

RESPONDENT:

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

OTHER PRESENT:

SMT. SEETHA .S. (SR.PP)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
07.04.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Petitioner is accused in Crime No.48/2022 of Chirayinkeezhu Police Station, Thiruvananthapuram district alleging commission of offences under Sections 4(2) r/w 3(a), 6(1) r/w 5(m) of the Protection of Children from Sexual Offences Act, 2012.

2. The allegation against the petitioner is that the petitioner had sexually abused and had committed penetrative sexual assault on the minor victim, a 11 year old boy.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a 68 year old man who is running a stationery shop. It is submitted that going by the statement given by the victim boy, he sexually abused the victim boy at a tea shop. It is submitted that, this itself is sufficient to show that the allegations are false. It is submitted that the petitioner had no occasion whatsoever to abuse the minor boy and that the allegations are false. It is submitted that the petitioner is absolutely innocent in the matter.

4. The learned Public Prosecutor vehemently opposes the grant of bail. It is submitted that there are clear allegations against the petitioner and the contentions raised by the learned counsel for the petitioner are absolutely incorrect. It is submitted that the statement of the minor victim given under Section 164 of Cr.P.C. clearly reveals the instances of sexual abuse by the petitioner. It is submitted that all the accused including the petitioner in these cases are named in the statement given under Section 164 of Cr.P.C. It is submitted that there is no reason whatsoever to disbelieve the statement under Section 164 of Cr.P.C. and this is not a

case where there is any exaggeration by the minor victim. It is submitted that the minor victim is suffering from psychological distress owing to the abuse that he suffered at the hands of the petitioner and others. It is submitted that the petitioner is not entitled to be released on bail.

5. Though I had rejected earlier bail application through Annexure-I order dated 14-03-2022, considering the fact that the petitioner has been in custody for 80 days and further considering the fact that the petitioner is a 68 year old man suffering from various ailments, I am inclined to grant bail with sufficient conditions to ensure that the petitioner does not influence the minor victim or any witness in Crime No.48/2022 of Chirayinkeezhu Police Station.

In the result this bail application is allowed. It is directed that the petitioner shall be released on bail, subject to the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court;
- (ii) The Petitioner shall report before the Investigating officer in Crime No.48/2022 of Chirayinkeezhu Police Station on every Saturday at 11 a.m till 30-06-2022;
- (iii) The petitioner shall not attempt to interfere with the investigation, influence or intimidate the victim or any witness in Crime No.48/2022 of Chirayinkeezhu Police Station;

- (iv) The petitioner shall not enter the local limits of Chirayinkeezhu Police Station except for the purpose of complying with condition No.(ii) above;
- (v) The petitioner shall surrender his passport before the jurisdictional Court. If the petitioner does not have a passport, he shall execute an affidavit to that effect and file the same before the jurisdictional court within seven days of release on bail;
- (vi) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the Investigating officer in Crime No.48/2022 of Chirayinkeezhu Police Station may file an application before the jurisdictional Court for cancellation of bail.

Sd/-
GOPINATH P.
JUDGE

AMG

APPENDIX OF BAIL APPL. 2579/2022

PETITIONER ANNEXURES

Annexure1 TRUE COPY OF THE ORDER IN BAIL APPL. NO. 1424 OF 2022
OF THIS HONTMBLE COURT DATED 14-03-2022.