

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

FRIDAY, THE 8TH DAY OF APRIL 2022 / 18TH CHAITHRA, 1944

BAIL APPL. NO. 2587 OF 2022

Crime No.213/2022 of Town West Police Station

PETITIONER/ACCUSED:

DR.SUNIL KUMAR .S
AGED 46 YEARS
SUNIL BHAVAN, PADIYOOR.P.O.
KANNUR, PIN - 670703

BY ADVS.
D.ARUN BOSE
K.VISWAN

RESPONDENT:

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

BY ADV PUBLIC PROSECUTOR

OTHER PRESENT:

SRI. T.R. RANJITH (SR.PP)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
08.04.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

The petitioner is the sole accused in Crime No.213/2022 of Town West Police Station, Thrissur District alleging commission of offences under Sections 376 (1) (f)(n), 376 (2) (n), 376 C of the Indian Penal Code.

2. The case of the prosecution is that the petitioner who is working as the Dean of the School of Drama and Fine Arts, Aranattukara, Thrissur committed the offence of rape on a student of the institute and thereby he committed the offences alleged against him.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent in the matter and that the prosecution is malicious. He points out that on 24-02-2022 the alleged victim had filed a complaint against the petitioner and one Raja Warriar who is also a teacher at the school alleging that the aforesaid Raja Warriar had insulted her while taking class and informing the petitioner of the incident the petitioner did not take action and instead called the victim over telephone and mouthed obscenities against her. According to the learned counsel for the petitioner, on the basis of the complaint given by the alleged victim on 24-02-2022, Crime No.209/2022 of the very same police was registered against the petitioner and Raja Warriar alleging commission of offences under Sections 354 and 354A of the IPC. It is submitted that the said crime was registered on 25-02-2022 after recording the statement of the alleged victim on 25-02-2022. The learned counsel for the petitioner points out that on the very next day, on 26-02-2022,

Annexure-6 complaint is filed alleging that the petitioner had committed rape on the victim without specifying any date or time of incident. It is submitted that the victim had every opportunity to raise the very same complaint when she had filed the initial complaint on 24-02-2022 and when she gave the statement before the police on 25-02-2022. It is submitted the without doing the same the victim has filed a false complaint against the petitioner. It is submitted that the petitioner has matrimonial disputes with his wife and refers to Annexure-5 whatsapp communication between the petitioner and his wife to show that his wife was very well aware that the alleged victim is going to file a complaint against the petitioner. It is submitted that the complaint is nothing but a false and cooked up complaint at the instance of the wife of the petitioner. It is submitted that the petitioner is a respected and known person in his field of expertise and the continued detention of the petitioner is not necessary in the facts and circumstances of the case. It is submitted that the investigation has been completed and a final report has already been filed in the matter.

4. The learned Public Prosecutor opposes the grant of bail. The circumstances of the case appearing against the petitioner are pointed out. Specific reference is made to Annexure-3 complaint made by the victim to show that there are clear allegations of rape. It is submitted that the contention of the learned counsel for the petitioner that his wife is behind the filing of the complaint by the victim is not a matter which can be taken into

consideration at this point of time as evidence will be required to prove the same. It is submitted that the petitioner is accused of very serious offences and is not entitled to be released on bail as on date.

5. The learned counsel for the petitioner adds that as per the instructions received by him, the victim has also not cooperated with the medical examination and actually refused to attend any medical examination.

6. Having regard to the totality of the facts and circumstances of the case and considering the fact that the petitioner has been in custody for 39 days, I am of the opinion that it would be unjust to deny bail to the petitioner. The petitioner is not a flight risk and his presence can be ensured at the trial of the case. Final report has also been filed in the matter.

Therefore 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.213/2022 of Town West Police Station on every Saturday at 11 a.m until further orders;
- (iii) The petitioner shall not attempt to interfere with the investigation, influence or intimidate the victim or any witness in Crime No.213/2022

of Town West Police Station;

(iv) 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;

(v) 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.213/2022 of Town West Police Station may file an application before the jurisdictional Court for cancellation of bail.

Sd/-
GOPINATH P.
JUDGE

AMG

APPENDIX OF BAIL APPL. 2587/2022

PETITIONER ANNEXURES

- Annexure1 CERTIFIED COPY OF F.I.R IN CRIME NO.213/2022 OF TOWN WEST POLICE STATION ,THRISSUR DATED 27/02/2022
- Annexure2 COPY OF THE DIVORCE O.P.NO.1172/2017 PENDING BEFORE THE HON'BLE FAMILY COURT KANNUR.
- Annexure3 COPY OF COMPLAINT FILED BEFORE THE HOD, SCHOOL OF DRAMA DATED 24.02.2022
- Annexure4 A TRUE COPY OF F.I.R.NO.209/2022 OF TOWN WEST POLICE STATION, THRISSUR DATED 25.02.2022
- Annexure5 COPY OF SCREEN SHOTS OF WHATSAPP
- Annexure6 COPY OF COMPLAINT SEND BY THE PETITIONERS WIFE TO THE PETITIONER.
- Annexure7 COPY OF PETITION SEND TO DIRECTOR GENERAL OF POLICE DATED 28.02.2022
- Annexure8 CERTIFIED COPY OF ORDER IN CRL.M.C.NO.317/2022 OF HON'BLE ADDITIONAL DISTRICT AND SESSIONS COURT - I THRISSUR.