



2023/KER/60916

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 10TH DAY OF OCTOBER 2023 / 18TH ASWINA, 1945

BAIL APPL. NO. 7083 OF 2023

CRIME NO.762/2022 OF ALOOR POLICE STATION, THRISSUR

PETITIONER/ACCUSED:

XXXXXXXXXX
XXXXXXXXXX XXXXXXXXXXXX
BY ADV P.K.VARGHESE

RESPONDENT/COMPLAINANT:

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

SRI VIPIN NARAYAN (SR PP)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
10.10.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



ORDER

This is an application for anticipatory bail.

2. Petitioner is the accused in Crime No.762/2022 of Aloor police station, Thrissur district, alleging commission of offences under Sections 452, 354 , 354A(1)(i), 354B, 376(2)(f), 276(2)(I) and 376(2)(n) of the Indian Penal Code and Section 92(b) of the Rights of Persons with Disabilities Act, 2016.

3. Allegation against the petitioner is that, from March-2022 to October-2022, the petitioner trespassed into the house of the victim and committed rape and thereby, he committed the offences alleged against him.

4. Learned counsel appearing for the petitioner would submit that, on the alleged date of incident, the petitioner was only 18 years of age. It is submitted that the alleged victim is none other than the cousin sister of the petitioner. It is submitted that the petitioner and the victim live in adjacent houses. It is submitted that it is quite unbelievable that in spite of stating that the first incident of rape was on March-2022, a First Information Report was registered only in the month of October 2022. It is submitted that the petitioner has been called to the police station and also has been subjected to medical examination and therefore, custody of



the petitioner is no longer necessary for the purposes of any investigation.

5. Learned Public Prosecutor opposes the grant of anticipatory bail. It is submitted that, earlier bail applications filed by the petitioner for anticipatory bail were dismissed as withdrawn. It is submitted that the victim has clearly spoken and identified the petitioner as the perpetrator of the crime. It is submitted that the victim is a disabled lady suffering from substantial hearing disability. It is submitted that the statement recorded from the victim under Section 164 Cr.P.C contains clear allegations against the petitioner. It is submitted that considering the nature of the offence and circumstances of the case, the petitioner is not entitled to anticipatory bail.

6. Having heard the learned counsel appearing for the petitioner and the learned Public Prosecutor, I am of the opinion that the petitioner cannot be granted anticipatory bail. Though the petitioner is stated to have been only 18 years of age at the time when the offence was committed, that by itself cannot be a ground to grant anticipatory bail to the petitioner, especially considering the nature of the offence involved. The petitioner and the victim are stated to be living in adjacent houses. The victim is also stated to be a disabled person. She has also clearly identified the petitioner



as the perpetrator of the crime. Therefore, I am not inclined to exercise the discretion vested in this Court to grant anticipatory bail to the petitioner. Accordingly, the application for anticipatory bail is dismissed.

However, if the petitioner surrenders before the investigating officer within a period of ten days from today, the arrest of the petitioner shall be recorded and he shall be produced on the same day before the jurisdictional Magistrate. If any bail application is filed by the petitioner before the jurisdictional court, the learned Magistrate shall consider the same, without undue delay.

Sd/-
GOPINATH P.
JUDGE

ajt