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Crl.A No.2083 of 2024

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

THURSDAY, THE 21ST DAY OF NOVEMBER 2024 / 30TH KARTHIKA,

1946

CRL.A NO. 2083 OF 2024

CRIME NO.1355/2024 OF KODUNGALLUR POLICE STATION, THRISSUR
AGAINST THE ORDER/JUDGMENT DATED 26.10.2024 IN CRMP NO.6240
OF 2024 OF ADDITIONAL SESSIONS COURT-I, THRISSUR

APPELLANT/PETITIONER:

CHANDRASEKHARAN,



BY ADVS.
NANDITHA S.
P.M.RAFIQ
M.REVIKRISHNAN
AJEESH K.SASI
SRUTHY N. BHAT
RAHUL SUNIL
SRUTHY K.K
SOHAIL AHAMMED HARRIS P.P.
AARON ZACHARIAS BENNY



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RESPONDENTS/RESPONDENT AND DEFACTO COMPLAINANT:

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

2 XXXXXXXX
XXXX

BY ADV
SRI.JAYAPRASAD M R
SMT.NIMA JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
21.11.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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K.BABU, J.

Criminal Appeal No.2083 of 2024

Dated this the 21st day of November, 2024

JUDGMENT

This is an appeal filed under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The challenge in this appeal is to the order dated 26.10.2024 in Crl.M.P No.6240/2024 passed by the Additional Sessions Court-I, Thrissur.

2. The appellant is the sole accused in Crime No.1355/2024 of Kodungallur Police Station. He is alleged to have committed the offences punishable under Sections 376(2)(a)(f)(n), 376(3), 354, 354(A)(1)(i)(ii)(iii), 354(B), 354(D)(ii) and 363 of the IPC, Sections 4(1) r/w Section (3)(a)(c), 6(1) r/w Section 5(a)(ii)(iii)(iv), 5(l)(k)(p), 10 r/w Section 9(a)(ii)(iii)(iv), 9(c)(l)(p), 12 r/w Section 11(iv) of the Protection of Children from Sexual Offences Act and Section 3(2)(v)



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of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The prosecution case

3. The appellant is not a member of scheduled caste or scheduled tribe. The victim is a member of scheduled caste. The appellant is a police officer working as SPC Instructor. The victim is a 14 year-old student studying at GVHSS, Puthanchira. The appellant was entrusted with the responsibility to train the students of the school in the SPC course. The appellant seduced the victim by maintaining relationship over mobile phone. By offering birthday treat, on 14.11.2022, he took her to a house near Cheraman mosque, Kodungallur. He committed aggravated penetrative sexual assault on her.

4. The appellant was arrested on 26.09.2024. He has been in judicial custody since then.

5. The appellant filed an application seeking regular bail before the Additional Sessions Court-I, Thrissur. The learned



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Sessions Judge dismissed the application as per the impugned order.

6. I have heard the learned Senior Counsel appearing for the appellant, the learned counsel appearing for the victim and the learned Public Prosecutor.

7. The learned Senior Counsel for the appellant submitted that the appellant is innocent and he has not committed the offences as alleged. The learned Senior Counsel further submitted that as the investigation is over further detention of the appellant is not required.

8. The learned Senior Counsel submitted that the delay in the lodging of FIS points to the chance of false implication.

9. The learned counsel for the victim opposed the bail plea of the appellant on the ground that the offences alleged are grave. The learned counsel submitted that the victim revealed the incident to the Counsellor at the school.

10. The learned Public Prosecutor also opposed the



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application seeking regular bail.

11. The incident happened on Children's day. The victim is a 14 year-old student undergoing training under the appellant in the SPC course. The appellant was SPC Drill Instructor in the school where the victim is studying. A woman police constable attached to Thrissur Rural Vanitha Police Station recorded the statement of the victim wherein she had raised specific allegations of rape against the appellant.

12. The learned Public Prosecutor submitted that the Police submitted the charge sheet on 05.11.2024.

13. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while dealing with application for bail:

- (i) The nature of the accusation and the severity of the punishment in the case of conviction and the nature of the materials



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- relied upon by the prosecution;
- (ii) Reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;
 - (iii) Reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his fleeing from justice;
 - (iv) Character, behaviour and standing of the accused and the circumstances which are peculiar to the accused;
 - (v) Larger interest of the public or the State and similar other considerations.

14. There is no hard and fast rule regarding granting or refusing bail. Each case has to be considered on the relevant facts and circumstances and on its own merits. The discretion of the court has to be exercised judiciously and not in an arbitrary manner.



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15. In serious offences, the courts should not lightly entertain the bail application when there is a prima facie case. Where the offence complained is of such nature as to shake the confidence of the public, bail shall not be granted. Bail is a rule, and jail is an exception, but the accused involved in offences, which are grave, serious and heinous, fall within the exception and not the rule.

16. While the court cannot ignore the fundamental right of the accused under Article 21 of the Constitution, it cannot shut its eyes totally to the atrocious nature of the offence committed. Ultimately, it is a question of harmonizing the two situations and finding the course to be adopted to see that justice is done to both parties.

17. I have perused the case diary and the report submitted by the Investigating Officer. The material placed by the prosecution would reveal that the appellant is alleged to have committed heinous offences. The prosecution has established a prima facie case.

18. Having considered the entire circumstances, I am of the



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view that the appellant is not entitled to be released on bail. The Criminal Appeal lacks merits, and it stands dismissed.

It is made clear that the appellant is at liberty to seek bail on changed circumstances.

Sd/-
K.BABU,
JUDGE

KAS