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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 11TH DAY OF FEBRUARY 2025 / 22ND MAGHA, 1946

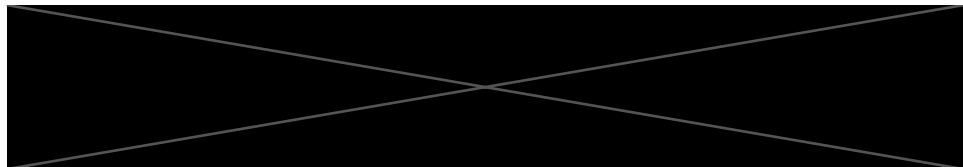
BAIL APPL. NO. 496 OF 2025

CRIME NO.1198/2024 OF Vattiyoorkavu Police Station, |

Thiruvananthapuram

AGAINST THE ORDER/JUDGMENT DATED IN Bail Appl.
NO.11227 OF 2024 OF HIGH COURT OF KERALA

PETITIONER/S:



BY ADVS.
MITHUN P.
MERIN THOMAS

RESPONDENT/S:

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

SRI.G.SUDHEER PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
11.02.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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P.V.KUNHIKRISHNAN, J

B.A. No. 496 of 2025

Dated this the 11th day of February, 2025**O R D E R**

Sympathy is not necessary towards minor rape victims from society, but society should hold such minor victims close to their hearts and protect their interests and also see that they are living in society with pride like every other citizen.

2. The petitioner in this case is the accused in Crime No. 1198/2024 of Vattiyoorkavu Police Station. The above case is registered against the petitioner alleging offences punishable under Sections 4 r/w 3(b), 3(d), 8 r/w 7, 10 r/w 9(l), 9(n), 9(p) of Protection of Children from Sexual Offences Act, 2012 & Secs. 354, 354A(1)(i), 354(B), 376, 376(2)(f) of the IPC.



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3. The victim in this case is a minor girl aged 17 years. She is studying in Plus One. The petitioner herein is the step-grandfather of the victim. The mother of the victim passed away about 8 years back due to cancer. Her father abandoned her, during her childhood and the victim has not even seen her father. Hence, the victim is residing with the petitioner and her grandmother. The petitioner and her grandmother were sleeping in one cot in the bedroom of the house and the victim was sleeping in another cot in the same bedroom. According to the victim, there was sexual abuse from the petitioner from 2019 onwards, while she was studying in 6th standard. It is stated that one day in the early morning, while she was sleeping in the cot, the petitioner also slept along with her and with sexual intent, groped her breast. Due to fear, she did not disclose this incident to the grandmother. When her grandmother went to the hospital and there was nobody in the house, and at that time, the



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petitioner slept along with her and groped her breast and applied his mouth on her vagina. This incident happened while she was studying in 7th standard. According to the victim, during this period, she did not know the grievousness of the petitioner's act. Thereafter, the petitioner continued the sexual abuse. While studying in 8th standard, she started to resist the petitioner. According to the victim, the petitioner threatened her that, if she disclosed the incident to anyone, he would kill her grandmother. Thus, she did not disclose these incidents to anyone. The poor victim, who is relying on her grandmother and grandfather for everything, was in an embarrassing situation. Her grandfather and grandmother are the only protectors in her life. But her grandfather abused her sexually. There were usual fights between grandfather and grandmother. The victim was disturbed by the same also. The last sentence in the FI Statement given by her will show the trauma faced by her.



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Without tears in eyes, the last sentence in the FI statement cannot be completed. It will be better to extract the same here:

“ഞാൻ ഈ വിവരങ്ങൾ ഉമ്മച്ചിയോട് പറഞ്ഞാൽ ഉപ്പച്ചിയെ എന്തെങ്കിലും ചെയ്യുമോയെന്നും അവരെ രണ്ടു പേരും എനിക്ക് നഷ്ടപ്പെടും എന്നതിനാലാണ് ഞാൻ ആരോടും പറയാതിരുന്നത്.”

These are the words of an innocent girl to the police, who is suffering sexual abuse from her own protector, who is none other than her grandfather. The FI statement was given by the victim on 1.11.2024 at 7 pm. The petitioner was arrested in connection with the above case on 02.11.2024.

4. Heard the learned counsel for the petitioner and the Public Prosecutor.

5. When this bail application came up for consideration, the learned counsel appearing for the petitioner took me through an affidavit filed by the grandmother, which is produced as Annexure-A5. In the



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affidavit, it is stated that the victim gave such a statement because of a misunderstanding and the grand daughter was not interested in the company of the petitioner. It is submitted by the grandmother that, the victim has no grievance against the petitioner. The Public Prosecutor seriously opposed the bail application and submitted that the allegation against the petitioner is very serious and this Court could not entertain this bail application.

6. Prima facie, I am of the considered opinion that this is a case in which the petitioner should face trial in custody. But, the counsel for the petitioner relies on the affidavit filed by the grandmother, which is produced as Annexure-A5. This Court perused the same. Thereafter, this Court requested Adv. Parvathy Menon. A, Project Coordinator of Victim Rights Centre (VRC), which is a service platform in the aegis of KeLSA to ensure access to justice and fair treatment to the victims. Based on the request of



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this Court, Adv. Parvathy Menon.A. communicated with the victim. An interim report was filed by Adv. Parvathy Menon, on 25.01.2025. It is stated that she met the victim. In the interim report, it is stated that the victim informed Adv. Parvathy Menon that despite the misfortunes in her life, including the absence of her parents, she is not haunted by these events. She mentioned that whenever she felt low, she would console herself and eventually bounce back to normalcy. That shows the courage of the victim. But, she sticks to the Annexure-A5 affidavit is the submission of Adv. Parvathy Menon A. The interim report concluded like this :

“It was suggested by all three counsellors, I consulted that the child requires observation through at least 2-3 sessions to provide a clearer picture of the situation. Therefore, I have sought the assistance of Adv. Sandhya J, District Coordinator of VRC, Trivandrum, to interact with the child, either personally or with the help of another lawyer from the VRC panel, alongside an independent counsellor, in order to properly assess her”.

7. Based on the above request, this Court adjourned



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the bail application for getting the final report.

Subsequently, the final report is now submitted by Adv.

Parvathy Menon A. It will be better to extract the same:

“Please find enclosed the detailed report from Adv. Sandhya J, District Coordinator, VRC, Trivandrum. She, along with a counselor, interacted with the survivor girl and found that the girl affirms the contents of the Annexure 5 affidavit filed by her grandmother. The report highlights the survivor's vulnerable situation and the unhealthy, toxic domestic environment created by the grandmother. The grandmother's approach is highly transactional and materialistic in nature. The District Coordinator and the Counselor are of the opinion that the survivor girl is presently likely to disown her statement to the police and maintain her version in the Annexure 5 affidavit, even if she is subjected to back-to-back counseling sessions within the short timeframe granted by this Honourable Court.

2. It would be appropriate to direct the Prosecutor to assist the survivor girl in receiving the victim compensation to which she is legally entitled to. Additionally, the CWC, Trivandrum may be instructed to appoint a support person for the survivor, as per Rule 4 (8) of the Protection of Children from Sexual Offences (POCSO) Rules, 2020 r/w Sec 39, POCSO Act, 2012 and also afford her regular counseling considering her vulnerability.”



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8. This court perused the entire report. From the above report, it is clear that the grandmother and the victim are relying on the petitioner for their livelihood. The victim is now facing trauma because, in her instance, her grandfather is kept in custody. It is clearly mentioned in the report. Considering the facts and circumstances of this case, I think the petitioner can be released on bail, after imposing stringent conditions. This order is passed to see that, there is no further mental stress to the victim child. But, as suggested by Adv. Parvathy Menon A, the Child Welfare Centre, Thiruvananthapuram should appoint a support person for the victim as per Rule 4(8) of the Protection of Children from Sexual Offences (POCSO) Rules, 2020 r/w Sec.39 of the Protection of Children from Sexual Offences (POCSO) Act, 2012. The support person should do the needful to see that the victim girl is living happily just like any other citizen of this Country and she is pursuing her



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studies in school. The Public Prosecutor will take steps to issue a copy of this order to the school authorities also, where the victim girl is studying to see that she is happy and pursuing her studies without any mental stress from any corner. I also make it clear that the Prosecutor should forward a copy of this order to the competent authority of the Government to take necessary steps to get victim compensation to the minor girl. The competent authority will pass necessary orders within 2 weeks of the receipt of this order. With these directions, this bail application can be allowed. Before concluding, I record my deep appreciation to Advocate Parvathi Menon A, Project Coordinator, Team VRC, KeLSA and Advocate Sandya J, District Coordinator, VRC, Trivandrum for their efforts.

Accordingly, this Bail Application is allowed with the following directions:

The petitioner shall be released on bail on



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executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

2. The petitioner shall appear before the Investigating Officer for interrogation as and when required. The petitioner shall cooperate with the investigation and shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

3. Petitioner shall not leave India without permission of the jurisdictional Court.

4. Petitioner shall not commit an offence similar to the offence of which he is



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accused, or suspected, of the commission of which he is suspected.

5. The petitioner shall appear before the investigating officer on all Mondays at 10.00 am, till final report is filed.

6. The Registry will issue a copy of this order to the Public Prosecutor forthwith and the Public Prosecutor will instruct the investigating officer to forward a copy of this order to the CWC, Thiruvananthapuram. CWC, Thiruvananthapuram will appoint a support person to the survivor forthwith as per Rule 4(8) of the POCSO Rules r/w Sec.39 of the POCSO Act forthwith at any rate within two weeks from the date of receipt of this order. The support person will do the needful to see that the victim is happy and pursuing



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her studies without any mental stress. If any further abuse or harassment occurs from the petitioner or her grandmother towards the victim, the authority concerned will take appropriate steps, in accordance with law. The investigating officer will also forward a copy of this order to the school authorities, where the victim is studying. School authorities will see that the victim is happy and is pursuing her studies without any mental stress from any corner. The Prosecutor should forward a copy of this order to the competent authority of the Government to take necessary steps to get victim compensation to the minor girl. The competent authority will pass necessary orders within 2 weeks of the receipt of this



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order.

7. If any of the above conditions imposed on the petitioner are violated by him, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court. The prosecution and the victim are at liberty to approach the jurisdictional court to cancel the bail, if there is any violation of the above conditions.

Sd/-
P.V.KUNHIKRISHNAN
JUDGE

SKS