

HIGH COURT OF KERALA**Bench: MRS. JUSTICE SOPHY THOMAS****Date of Decision: 29 JANUARY 2024**

BAIL APPL. NOS. 272, 274, 275, 276, 277, & 278 OF 2024

CRIME NOS.1179/2023, 1180/2023, 1182/2023, 1181/2023, 1183/2023, & 1184/2023 OF Kozhikode Town Police Station, Kozhikode

Xxxxxxx PETITIONER/ACCUSED**Versus****STATE OF KERALA, represented by Public Prosecutor, High Court of KeralaRespondent****Legislation:**

Section 439 of the Code of Criminal Procedure

Sections 354(1)(i) of the Indian Penal Code

Section 10 read with Section 9(f) of the Protection of Children from Sexual Offences Act

Section 75 of the Juvenile Justice (Care and Protection of Children) Act

Subject: Six Applications for regular bail filed by the sole accused in multiple crime cases, involving allegations of sexual assault of minor girl students.**Headnotes:**

Bail Application in Multiple Cases – Accused, a Drawing Teacher, alleged to have sexually assaulted minor girl students, filed bail applications in six different cases. [Para 1]

Allegations of Sexual Assault – Accusations of assaulting Vth standard students at Himayathul Islam School by touching their private parts on 12.12.2023. [Para 2]

Opposition to Bail by Public Prosecutor – Based on the nature of allegations, bail applications opposed. [Para 4]

Delay in Complaint and Doubtful Circumstances – Argument of delay in lodging complaint by six days – Doubt over the feasibility of assaulting six girls in a classroom setting – Petitioner in judicial custody since 20.12.2023. [Para 5]

Court Observation – Noted the delay in filing complaints and expressed doubts about the feasibility of the allegations; recognized substantial progress in investigation. [Para 6]

Bail Granted – Court inclined to release the petitioner on bail under strict conditions, including bond execution, reporting to investigating officer, restricted entry to school, non-interference with victims, witnesses, and investigation, surrender of passport, restricted travel, and adherence to law. [Para 6]

Bail Conditions – Detailed conditions set for bail, including financial bonds, regular reporting, geographical restrictions, non-contact with victims and witnesses, passport surrender, and travel limitations. [Para 6(i-viii)]

Violation of Bail Conditions – Provision for cancellation of bail by trial court upon violation of any set conditions. [Para 6(ix)]

Referred Cases: Nil

Representing Advocates:

Petitioner: P.K. Varghese, M.T. Sameer, K.R. Arun Krishnan, Dhanesh V. Madhavan, Jerry Mathew, Reghu Sreedharan

Respondent: Sr. Public Prosecutor Sri Vipin Narayan

ORDER

These are applications for regular bail under Section 439 of the Code of Criminal Procedure filed by the sole accused in Crime Nos.1179 of 2023 , 1180 of 2023 , 1182 of 2023, 1181 of 2023, 1183 of 2023 and 1184 of 2023 respectively of Town Police Station, Kozhikode District, registered under Sections 354(1)(i) of Indian Penal Code, Section 10 read with Section 9(f) of Protection of Children from Sexual Offences Act and Section 75 of Juvenile Justice (Care and Protection of Children) Act.

2. The prosecution allegation is that on 12.12.2023, between 11.20 a.m. and 12.00 Noon, the petitioner, who was the Drawing Teacher of Himayathul Islam School, sexually assaulted the victim girls,

who were his students in Vth Standard, outraged their modesty, by touching their private parts.

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

4. Learned Public Prosecutor opposed the bail applications.

5. Learned counsel for the petitioner would submit that though the alleged incident occurred on 12.12.2023, the complaint was lodged by all the victims only on 18.12.2023 with a delay of six days. The strength of that class was 34 and there were 12 girl students in that class. So there was no probability for the petitioner to sexually assault six girl students in that class room, on a single day in presence of other students. The petitioner is in judicial custody since 20.12.2023 and his continued detention is not needed for the purpose of investigation. He is ready to abide by any conditions imposed by this Court.

6. It is true that there is a delay of six days in making the complaint by the victim girls. Moreover, the allegation that on the same day, the petitioner sexually assaulted six girl students of the same class also seems doubtful. The petitioner is in judicial custody from 20.12.2023 and the investigation has progressed substantially. So this Court is inclined to release the petitioner on bail in Crime Nos.1179 of 2023, 1180 of 2023, 1182 of 2023, 1181 of 2023, 1183 of 2023 and 1184 of 2023 of Town Police Station, Kozhikode District, on the following terms:

i. The petitioner shall be released on bail on executing separate bonds for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum in Crime Nos.1179 of 2023, 1180 of 2023, 1182 of 2023, 1181 of 2023, 1183 of 2023 and 1184 of 2023 of Town Police Station, Kozhikode District, to the satisfaction of the trial court. ii. The petitioner shall report before the investigating officer, on alternate Saturdays, starting from

02.02.2024, between 10.00 am and 11.00 am for a period of three months or till the final report is filed, whichever is earlier. **iii.** The petitioner shall not enter the limits of Hidayathul Islam School for a period of three months or till the investigation is over, whichever is earlier.

iv. The petitioner shall not try to contact the victim girls or their family members and shall not influence or intimidate them, either directly or indirectly.

v. The petitioner shall not influence or intimidate the witnesses and shall not tamper with the investigation.

vi. The petitioner has to surrender his passport before the trial court at the time of executing bond and if he is not having a passport, he has to file an affidavit to that effect before the trial court.

vii. The petitioner shall not leave the limits of State of Kerala without getting prior sanction from the trial court. **viii.** The petitioner shall not commit any offence while on bail.

ix. In case of violation of any of these conditions, the trial court is empowered to cancel his bail, in accordance with law.

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