

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

MONDAY, THE 27<sup>TH</sup> DAY OF MARCH 2023 / 6TH CHAITHRA, 1945

BAIL APPL. NO. 619 OF 2023

CRIME NO.582/2020 OF MANJESWAR POLICE STATION, KASARGOD

SC 394/2021 OF FAST TRACK SPECIAL COURT, HOSDURG

PETITIONER/ACCUSED NO.2:

XXXXXXXXXX

BY ADV M.SHAJNA

RESPONDENTS/STATE:

- 1 THE STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031
- 2 THE SUB INSPECTOR OF POLICE,  
MANJESWARAM POLICE STATION,  
KASARAGOD DISTRICT, PIN - 671323

SRI.M.P.PRASANTH, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
27.03.2023, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**ORDER**

This application is filed u/s 439 of the Code of Criminal Procedure seeking regular bail.

2. The applicant is the accused No.2 in S.C.No.394 of 2021 on the files of the Fast Track Special Court (Rape & POCSO Cases), Kasaragod. The offences alleged are punishable under Sections 376(1), 376D and 354A(1)(i) of IPC and Sections 4 r/w 3(a), 3(d), 5(g), 6, 7, 8 11(i) of the POCSO Act.

3. The prosecution case, in short, is that the 1<sup>st</sup> accused committed rape of the victim with the active support of the accused Nos.2 and 3.

4. I have heard Smt.M.Shajna, the learned counsel for the applicant and Sri.M.P.Prasanth, the learned Public Prosecutor. Perused the case diary.

5. The learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the present case. The counsel further submitted that no materials are on record to connect the applicant with the alleged crime; hence, she is entitled to get bail. On the other hand, the learned Public Prosecutor submitted

that the alleged incident occurred as a part of the intentional criminal acts of the applicant, and she is not entitled to bail at this stage.

6. The applicant is the sister of the victim. The rape was committed by the 1<sup>st</sup> accused. The only allegation against the applicant is that she gave all support to the 1<sup>st</sup> accused to commit rape on the victim. The investigation is over and the final report has already been filed. The applicant was remanded to judicial custody on 13.10.2020. It is submitted that the remaining accused are already on bail. For all these reasons, I do not find any reason to hold that the continued detention of the applicant is required for any purpose. Hence, the applicant is entitled to be released on bail.

In the result, the application is allowed on the following conditions: -

(i) The applicant shall be released on bail on executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Magistrate/Court.

(ii) The applicant shall not in any way contact the victim either personally or phone.

(iii) The applicant shall not attempt to contact any of the prosecution witnesses, directly or through any other person, or in any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

(iv) The applicant shall not leave the State of Kerala without the permission of the trial Court.

(v) The application, if any, for deletion/modification of the bail conditions or cancellation of bail on the grounds of violating the bail conditions shall be filed at the jurisdictional court.

Sd/-

**DR.KAUSER EDAPPAGATH, JUDGE**

AS