

**IN THE COURT OF ADDITIONAL DISTRICT AND SESSIONS JUDGE,
ERNAKULAM**

(For the trial of cases relating to Atrocities & Sexual Violence against Women
and Children)

PRESENT:

Sri. K.Soman, Addl. District & Sessions Judge
Thursday, the 13th day of April, 2023

CMP No. 182/2023

Nedumbassery P.S.Cr. No. 120/2023

Petitioner/Accused:-

Abijith Raj, aged 22 years, S/o.Raju,
Gopurathinkal House, Near
ST.George Church, Chullikkara,
Iyyampuzha Village, Ernakulam
District - 683581.

By Adv.V.S.Salim

Respondent/Complainant:

The State of Kerala represented by
the S.I. of Police, Nedumbassery Police Station

By Special Prosecutor Smt. Bindhu. P.A

This petition having been finally heard on 13.04.2023 and the order passed on the
same day passed the following:-

ORDER

This is an application for bail u/s. 439 of Cr.P.C.

2. The sole accused in the above crime is the petitioner. The police is
conducting investigation in this case alleging offences u/s.363, 370 A (i), 376
(2) (n), 376 (3) of Indian Penal Code and Sec. 4 (2) r/w.3, 5 (l) r/w.6 of the
Protection of Children from Sexual Offences Act, 2012 and Sec.3 (2) (v) of

SC/ST (Prevention of Atrocities) Act. The prosecution allegation is that the accused got acquainted with the victim girl aged 14 years. Since 2022 offering to marry her. The victim belong to Pulaya community included in Scheduled Caste and the accused belong to Christian community. They fell in love and the accused has taken the victim in his motorcycle bearing registration No.KL-41-3100 from her house to the house of the accused bearing No.II/229A of Angamaly Municipality. On 03.12.2022 at 10.00 am and on subsequent dates they were engaged in sexual intercourse at the residence of the accused. During the period from 04.01.2023 till 22.01.2023 on different dates during night the accused has engaged in sexual intercourse with the victim at Thattupara in Ayyampuzha Village, Marigiri Kara after taking the victim to that place in his motorcycle. This was repeated by them on 06.02.2023, 13.02.2023 and 20.02.2023 at Ayyampuzha Village Ezhattumugham Kara near Thumboormuzhi dam. On 27.02.2023 the victim was taken by the accused to Aluva Manappuram and they stayed there for two days. Therefore the accused is alleged to have committed the above mentioned offences.

3. The petitioner is in judicial custody from 04.03.2023.

4. Petition opposed by the learned Special Public Prosecutor and

report filed by the Investigating Officer opposing the prayer. On receipt of notice from this court the father of the victim girl appeared and he did not raise any objection against the bail plea.

5. Heard both sides.

6. This case was registered by the police u/s.57 of the Kerala Police Act on 27.02.2023 on the basis of the complaint of the father of the victim girl that his daughter is missing. Subsequently the victim was located and on the basis of her statement the sections were altered as above and the accused was taken into custody. The victim was taken to the Judicial First Class Magistrate, Angamaly and gave statement to the learned Magistrate u/s.164 Cr.P.C. She has stated about the love affair with the accused and stated about her travel with the accused on 27.02.2023 to Aluva Manappuram and stayed there till 01.03.2023. She has given statement to the effect that they had engaged in sexual intercourse on different dates at the house of the accused at Thattupara. At Ezhattumugham also they had sexual intercourse. Still the victim has no grievance against the accused and according to her she voluntarily engaged in sexual acts with the accused. Since the victim is a child u/s.2 (d) of the Protection of Children from Sexual offences Act, 2012 as her

age is below 18 years consent is immaterial and sexual intercourse with a minor is an offence of rape and aggravated penetrative sexual assault. However considering the length of detention and the stage of investigation I am inclined to grant bail to the petitioner on conditions.

7. In the result, the petition is allowed and bail granted to the petitioner on the following conditions.

1. The petitioner shall execute a bond of Rs. 1,00,000/- (Rupees One Lakh only) with two solvent sureties each for the like sum.
2. The petitioner shall report before the Investigating Officer between 10.00 am and 11.00 am on every Monday, till the charge sheet is filed.
3. The petitioner shall not make any room for a complaint of influencing or threatening the victim and other witnesses involved in this case.
4. The petitioner shall surrender his passport and if he does not possess passport, he has to file an affidavit in that behalf, attested by the jail authorities concerned.
5. The petitioner shall not commit similar offences during the period of bail.

Pronounced in open court on this the 13th day of April, 2023.

K.Soman,
Addl. District & Sessions Judge.

CRIMINAL MP No. 182/2023
Nedumbassery P.S Cr. No. 120/2023
ORDER : Dated: 13.04.2023