

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR
&
THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

Tuesday, the 17th day of December 2024 / 26th Agrahayana, 1946

CRL.M.APPL.NO.1/2024 IN CRL.A NO.3 OF 2024

SC 474/2021 OF FAST TRACK SPECIAL COURT, KATTAPPANA (POCSO), IDUKKI

APPLICANT/APPELLANT/COMPLAINANT:

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

RESPONDENT/RESPONDENT/ACCUSED:

XXX

Application praying that in the circumstances stated therein the High Court be pleased to issue arrest warrant against the respondent/accused for bringing him before this Hon'ble Court, and commit him to prison pending disposal of the appeal and pass such other orders, this Hon'ble Court deems fit in the facts and circumstances of the case and in the interest of justice.

This Application coming on for orders upon perusing the application and this Court's orders dated 03.12.2024 and 12.12.2024 and upon hearing the arguments of the PUBLIC PROSECUTOR for the petitioner and of M/S.S.K.ADHITHYAN, REUBEN CHARLY, Advocates for the respondent, the court passed the following:

P.T.O.

P.B.SURESH KUMAR & JOBIN SEBASTIAN, JJ.

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Dated this the 17th day of December, 2024

O R D E R

Crl.M.Appl.No.1 of 2024

The above interlocutory application is one preferred by the State invoking Section 431 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). When this matter came up on 03.12.2024, this Court passed the following order :

“Sri.S.K.Adhithyan-counsel for the respondent seeks time to file counter assuring that his client does not intend to travel abroad in the meanwhile.

Post the Appeal on 12.12.2024.”

Despite the time granted, the respondent has not filed any counter. Instead, when the matter came up on 12.12.2024, the counsel for the respondent sought further time to file counter reiterating that his client does not intend to travel abroad. The order passed by this Court on 12.12.2024 reads thus:

“The learned counsel for the respondent seeks further time to file counter affidavit. The learned counsel undertakes that his client does not intend to travel abroad. The

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undertaking of the counsel is recorded.

The registry is directed to list the matter on 17.12.2024.

Counter affidavit, if any, shall be filed in the meanwhile.”

Today, when this matter was taken up, the learned counsel for the respondent submitted that the respondent has instructed him not to appear in this matter and that the respondent is making alternative arrangement for his appearance in the matter.

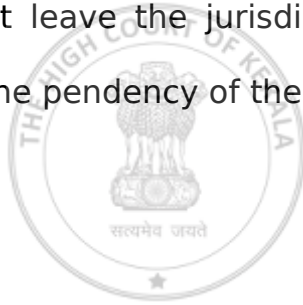
Inasmuch as the respondent has been served notice, it is for him to engage a lawyer, if he chooses to appear in the proceedings through a lawyer. It is all the more so since he has instructed the lawyer already engaged by him, not to appear for him. Inasmuch as the respondent has not made any alternative arrangement for his appearance in the proceedings, the following directions are issued:

- (i) The respondent shall, within ten days, appear before the Special Court for the Trial of Offences Under the Protection of Children from Sexual Offence Act, 2012, Kattappana, and execute a bond for Rs.50,000/-

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(Rupees fifty thousand only) with two solvent sureties each for the like amount to the satisfaction of the learned Sessions Judge.

(ii) If no such bond is executed, the Sessions Judge shall issue Non Bailable Warrant against the respondent, and when he executes the bond, the learned Sessions Judge shall release him on bail on such conditions as would ensure that the respondent does not leave the jurisdictional limits of this Court, during the pendency of the Criminal Appeal.



Sd/-

P.B.SURESH KUMAR, JUDGE.

Sd/-

JOBIN SEBASTIAN, JUDGE.

YKB