

BA No.4130/2026

CNR : KLHC010554692026



2026:KER:59696

-:1:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

MONDAY, THE 3RD DAY OF AUGUST 2026 / 12TH SRAVANA, 1948

BAIL APPL. NO. 4130 OF 2026

CRIME NO.354/2026 OF Chalakkudy Police Station, Thrissur
AGAINST THE ORDER DATED 22.07.2026 IN Bail Appl.
NO.3846 OF 2026 OF HIGH COURT OF KERALA

PETITIONER/ACCUSED:

SHIJU, AGED 50 YEARS
S/O KUNJOONJU, PARASSERY HOUSE, PULIYILAPPARA
DESOM, ATHIRAPPILLY VILLAGE, CHALAKKUDI TALUK,
THRISSUR DISTRICT, PIN - 680724

BY ADV SHRI.JERRY MATHEW

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM, PIN - 682031
- 2 XXXXX
AGED XXX YEARS
- 3 XXXXX
AGED XXX YEARS
SMT.ANEEDA BEEGUM, SR. PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
03.08.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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"C.R."

O R D E R

This is the second application for regular bail filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. The applicant is the sole accused in Crime No.354/2026 of Chalakkudy Police Station, Thrissur District. The offences alleged are punishable under Sections 10, 9(l), 9(n), 12 and 11(i) of the Protection of Children from Sexual Offences Act, 2012.

3. The prosecution case, in brief, is that the applicant, father of the minor girl aged 17 years, with intent to commit sexual assault, on 10/04/2026 at about 12:30 hours, touched the thighs of the girl. Further, in February and March 2026, at about 1:00 a.m., the applicant touched the breast of the victim, uttered sexually coloured remarks, and thereby committed the alleged offences.



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4. The applicant was remanded to judicial custody on 17/4/2026 and since then he is in custody.

5. I have heard Sri.Jerry Mathew, the learned counsel for the applicant and Smt. Aneeda Beegum, the learned Senior Public Prosecutor. Perused the case diary.

6. 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, he is entitled to bail. The learned counsel for the applicant further submitted that, after the dismissal of the first bail application, the matter has been settled between the applicant and the victim's mother, who has expressed her willingness to grant bail to the applicant. On the other hand, the learned Senior Public Prosecutor submitted that the alleged incident was part of the applicant's intentional criminal acts and that he is not entitled to bail at this stage.



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7. The case depicts the tragic plight of a minor girl, aged 17 years, who was repeatedly subjected to sexual exploitation by her own father. The accusation against the applicant is grave and *prima facie* discloses a premeditated criminal act. In her statement, the victim has narrated how she was mercilessly subjected to sexual assault by the applicant. The first bail application was dismissed having regard to the nature of the crime, the gravity of the offence, and the relationship between the applicant and the victim. It now emerges that the mother of the victim, who had initially lodged the complaint alleging sexual assault, has chosen to settle the matter in utter disregard of the interest and welfare of her daughter – a situation aptly described as the fence itself devouring the crop.

8. In the affidavit filed by the mother of the victim, marked as Annexure-3, it is asserted that the matter has been settled between the applicant and the victim and that she does not wish to prosecute the case further. It is further stated that the victim has no objection to the grant of regular bail to the



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applicant. However, it is significant to note that the mother has not contended that the incident did not occur; her case rests solely on the claim of a subsequent settlement.

9. Offences involving sexual assault of a minor are not compoundable. The law does not permit parents or guardians of a minor victim to compromise, withdraw, or express no objection to the continuation of criminal proceedings or to the grant of bail in relation to an offence of incestuous sexual assault [see *Vishnu v. State of Kerala*, 2023 (3) KLT 754]. Consequently, the mother cannot legally settle or compromise a case against the father for sexual harassment or sexual assault of their minor daughter. Any compromise or out-of-court settlement effected by the parents of a minor victim with the object of stifling criminal prosecution cannot receive the sanction of law, nor can such a settlement override the State's duty to prosecute offences against children. Courts, in the exercise of their *parens patriae* jurisdiction, bear a bounden duty to safeguard the rights of minor victims of sexual assault, even where parents fail to do so. Hence, the compromise

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cannot be accepted.

For the aforementioned reasons, the applicant cannot be released on bail. The bail application, accordingly, is dismissed.

Sd/-

DR. KAUSER EDAPPAGATH

JUDGE

Rp

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APPENDIX OF BAIL APPL. NO. 4130 OF 2026

PETITIONER ANNEXURES

Annexure 1	ORDER DATED 04-06-2026 IN BAIL APPL.2882/2026 ON HIGH COURT
Annexure 2	ORDER DATED 22-07-2026 IN BAIL APPL.3846/2026 ON HIGH COURT
Annexure 3	THE ORIGINAL AFFIDAVIT SWORN BY THE 3RD RESPONDENT ON BEHALF OF THE 2ND RESPONDENT DATED 23.07.2026