

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 30TH DAY OF DECEMBER 2014/9TH POUSHA, 1936

Bail Appl..No. 8530 of 2014 ()

CRIME NO. 1737/2014 OF VADAKKANCHERRY POLICE STATION, PALAKKAD DISTRICT

PETITIONER/ACCUSED:

**B.PADMADAS,
S/O.BASKARAN, AGED 49 YEARS,
KOLLENGODE HOUSE, KANNAMBRA P.O.,
ALATHUR TALUK, PALGHAT DISTRICT.**

BY ADV. SRI.C.A.ANOOP

RESPONDENT(S):

- 1. STATION HOUSE OFFICER,
VADAKKANCHERRY POLICE STATION,
PALAKKAD DISTRICT -678 683.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30-12-2014, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

sts

B.KEMAL PASHA, J.

B.A.No.8530 of 2014

Dated this the 30th day of December, 2014

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.1737/2014 of the Vadakkenchery Police Station, Palakkad District registered for the offences punishable under Sections 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act') and Section 118(d) of the Kerala Police Act.

3. The allegation against the petitioner is that on 11.11.2014, he who belongs to a forward community, while working as teacher of C.A.H.S. School, ridiculed the defacto complainant student of the Xth standard, who belongs to a scheduled Caste by calling his caste name.

4. Heard learned counsel for the petitioner and learned

Public Prosecutor.

5. Initially, it may appear that the provisions under Section 438 of Code of Criminal Procedure, cannot be attracted to the offence involved in this case. The case records reveal that the defacto complainant boy, named Akhilesh, belongs to 'Cheruman' community, which is a Scheduled caste. It seems that the wording allegedly used by the petitioner is 'nayadi'. Admittedly, the defacto complainant does not belong to any caste named 'nayadi'. Therefore, it cannot be said that the petitioner had made use of the caste name of the defacto complainant to humiliate him. It seems that he has not called the caste name of the defacto complainant.

6. The learned counsel for the petitioner has pointed out that the petitioner had to fight against the Management of the school for getting his employment and it was on orders on his complaint, he was finally appointed as teacher in that school. The management has severe ill will towards the present petitioner as he

had obtained his employment from the management through legal means. There is every possibility to suspect that the petitioner is unnecessarily implicated in a false case like this. There is absolutely nothing to show that the facts alleged in this case, will attract an offence under Section Sections 3(1)(x) of the Act, even if the acts are admittedly done by the petitioner. When there is nothing to invite an offence under Section 3(1)(x) of the Act, it cannot be said that there is bar under Section 18 of the said Act in this case. Matters being so, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioner.

7. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioner, is directed to enlarge the petitioner on bail in the event of his arrest on his executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest,

and subject to the following terms and conditions:-

(i) The petitioner shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on 03.01.2015.

(ii) The petitioner shall not tamper with the evidence or influence witnesses.

(iii) The petitioner shall make himself available for interrogation as and when required by the investigating officer.

(iv) The petitioner shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

Sd/-
B.KEMAL PASHA,
JUDGE

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PA to Judge