

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

Bail Appl..No. 103 of 2015

CRIME NO. 394/2014 OF CHELAKKARA POLICE STATION , TRISSUR

PETITIONER(S)/ACCUSED:

**SAJITH N., AGED 22 YEARS
S/O.UNNIKRISHNAN NAIR,
NETTATH HOUSE, P.O.MAYANOR
THRISSUR DISTRICT.**

**BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.M.REVIKRISHNAN
SRI.VIPIN NARAYAN**

RESPONDENT(S):

**1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

*** ADDL.R2 IMPEADED**

**2. SINI, W/O.SHAJI,
PAZHUNNEN HOUSE, PULAKODE,
THRISSUR DISTRICT.**

**IS IMPEADED AS ADDL.R2 AS PER ORDER DATED 6/2/2015 IN
CRL.MP..1029/15 IN BA.103/2015**

R1 BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18-02-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

B. KEMAL PASHA, J.

.....
B.A. No.103 2015
.....

Dated this the 18th day of February, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.394/2014 of Chelakkara Police Station registered for the offences punishable under Sections 376 and 506(i) IPC and Section 66(E) of the Information Technology Act, 2000.

3. The allegation against the petitioner is that on 12.03.2014 at 1 p.m., he came to the house of the *defacto complainant*, gained entry into the house, bolted the house from inside and committed rape on the *defacto complainant* woman while her children were not present there. It is alleged that he took the nude photos of the *defacto complainant* and by intimidating her, he had subjected her to sexual intercourse on another occasion also.

4. Heard learned Senior Counsel for the petitioner

and learned Public Prosecutor.

5. The learned Senior Counsel for the petitioner has argued that the *defacto complainant* was involved in several other instances wherein she had trapped several persons in cases alleging rape and got it settled through mediation at the instance of a police officer, who was hand in gloves with her. It is pointed out that presently, she has gone abroad as she was about to be nabbed in one such case wherein a person had to commit suicide as he was trapped in such a case. It seems that even though she belongs to Chelakkara, instead of going to the Chelakkara Police Station, she had gone to the Kunnankulam Police Station to prefer the present complaint.

6. On hearing the above, this Court was of the view that the *defacto complainant* could be impleaded in the matter. Consequently, the *defacto complainant* was impleaded and notice through special messenger was ordered. Notice could not be served on her as she had

gone abroad and left India. It seems that the investigation of this case is practically over. The custodial interrogation of the petitioner is not required for the continued investigation of this case. At the most, the petitioner may be required for subjecting him to potency test for which necessary condition can be imposed while granting anticipatory bail to the petitioner. Matters being so, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioner on conditions.

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 ₹1,00,000/- (Rupees one lakh 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 9 a.m. and 11 a.m. on all Wednesdays and Saturdays commencing from 25.02.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier. The investigating officer can send the petitioner for potency test and the petitioner shall co-operate with the same.*

*(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)**

aks/18/02

*// True Copy //*

*PA to Judge*