

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

Bail Appl..No. 213 of 2015 ()

CRIME NO. 1652/2014 OF PALARIVATTOM POLICE STATION, ERNAKULAM

PETITIONER/ACCUSED :

**VISHNU, AGED 29 YEARS,
S/O BALACHANDRAN, PATTACHERY ROAD, PATTAKARFA,
POONITHURA NOW RESIDING ON MINAKKODAM LANE,
POINT ROAD ERNAKULAM, KADAVANTHARA P.O.,
ERNAKULAM 682020**

**BY ADVS.SRI.P.B.AJOY
KUM.APARNA SOMARAJAN**

RESPONDENT/COMPLAINANT:

**THE STATE OF KERALA,
REPRESENTED BY SHO OF PALARIVATTOM POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM 682031**

BY PUBLIC PROSECUTOR SRI. BINDU GOPINATH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 20-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

B.KEMAL PASHA, J.

.....
B.A. No.213 OF 2015
.....

Dated this the 20th day of January, 2015

ORDER

Petition filed under Section 439 Cr.P.C.

2. Petitioner is the accused in Crime No.1652/2014 of the Palarivattom Police Station, Ernakulam registered for the offences punishable under Section 376 of the Indian Penal Code and Section 119(b) of the Kerala Police Act.

3. The defacto complainant girl, aged 19 years, was working at Aster Medicity Hospital as a security guard, as she was appointed there by an agency. She is hailing from Bathery Taluk. As she was tortured and harassed by her father, her father was arrested by the police and he has been undergoing imprisonment at the Kannur Central Prison. As she was denied employment, she went to the

Four Star Agency Office from where she was deputed for the job. As it was 6 p.m., the office was seen locked. As she had no money with her to go back to her house, she went to the North railway station, Ernakulam and spent the night there. Even though she went to the office of the agency on the next day, she was not given any employment and therefore, she had to come back to the North railway station. There, she sat on a chair and slept during the night. At around 1 O' clock in the night, the petitioner tapped at her hand and woke her up and told her that there was no train to Kozhikode at that time and he would take her to his house wherein his father and mother are there, where she can safely stay there during that night. She went along with him. She was taken to a house wherein she was subjected to rape. Even though she resisted, she was raped brutally and her nude photographs were taken by the petitioner. The petitioner has been in custody for the period from 09.12.2014 onwards.

4. Heard learned counsel for the petitioner and the learned Public Prosecutor. Perused the CD.

5. The contents of the CD, *prima facie*, reveal the complicity of the petitioner. The investigating officer has reported that the petitioner has no permanent place of abode and therefore, he will not be available for trial, in case he is enlarged on bail. No criminal antecedents have been reported against the petitioner. The contents of the CD reveal that the investigation of this case is practically over. Continued detention of the petitioner in custody is not required for the continued investigation of this case. Having regard to the period undergone by the petitioner in custody, the present stage of investigation, and the absence of any criminal antecedents on his part, I am of the view that the petitioner can be enlarged on bail by imposing strict conditions ensuring his availability for trial, as he has no permanent place of abode.

6. In the result, this Bail Application is allowed and

the petitioner shall be enlarged on bail on his executing a bond for ₹50,000/- (Rupees fifty thousand only) with two solvent sureties for the like sum each to the satisfaction of the concerned Judicial First Class Magistrate's Court, and subject to the following terms and conditions:-

(I) Both the sureties shall produce solvency certificates for the said amount for ₹50,000/- (Rupees fifty thousand only).

(ii) The petitioner shall report before the Investigating Officer in between 9 a.m. and 11 a.m. on all Tuesdays and Fridays commencing from 27.01.2015 for a period of six months.

(iii) The petitioner shall neither contact the girl or her family members nor shall make any attempt for the same, either directly or indirectly.

(iv) The petitioner shall surrender his passport before the court below.

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

(vi) The petitioner shall make himself available for interrogation as and when required

by the Investigating Officer.

(vii) 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

ul/-

[True copy]

P.S. to Judge