

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

Bail Appl..No. 413 of 2015 ()

**CRIME NO. 2211/2014 OF PATHANAMTHITTA POLICE STATION ,
PATHANAMTHITTA DISTRICT**

PETITIONER/ACCUSED:

**DINU P.THAMBI,AGED 24 YEARS,
S/O.THAMBI, THEKKEKARA PUTHEN VEEDU,
CHERATTUKUZH MURI, CHANNAPETTA P.O,
ANCHAL, KOLLAM.**

**BY ADVS.SRI.M.MANOJ KUMAR
SMT.L.SMITHARAJ**

RESPONDENT/DE-FACTOCOMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT. LALIZA.T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 19-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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B. KEMAL PASHA, J.

.....
B.A. No.413 2015
.....

Dated this the 19th day of February, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.2211/2014 of Pathanamthitta Police Station registered for the offence punishable under Section 376 IPC.

3. The allegation against the petitioner is that he had enticed the *defacto complainant* woman and committed rape on her at 6 p.m. on 30.12.2014, by assuring that he would marry her. It is alleged that by repeating the assurance, he had subjected the woman to sexual intercourse on several other occasions and thereafter, he has retracted from the said promise.

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

5. The learned counsel for the petitioner has pointed

out that the petitioner has married the *defacto complainant* and their marriage was held on 30.01.2015 as per the Special Marriage Act. Copy of the certificate of marriage has been produced.

6. The only case of the *defacto complainant* is that she consented to the sexual intercourse on the belief that the petitioner would marry her. It was when he allegedly retracted from his promise, she filed the complaint. When the petitioner has married her, there cannot be any offence at all. 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 9 a.m. and 11 a.m. on 26.02.2015.

(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)

aks/19/02

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PA to Judge