

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

Bail Appl.No. 591 of 2015

CRIME NO. 2636/2014 OF MATHILAKOM POLICE STATION, THRISSUR

.....

PETITIONER(S)/ACCUSED:

1. SUDHEESH, AGED 27 YEARS,
S/O.SUKUMARAN, NADAMURI HOUSE, PANANGAD P.O.,
ACHAMPARATHY DESOM, KODUNGALLUR TALUK,
THRISSUR DISTRICT.
2. PRAMOD, AGED 36,
S/O.SANKARANARAYANAN, CHIRAYIL HOUSE, PANANGAD P.O.,
MULLAN BAZAR DESOM, KODUNGALLUR TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.RAJIT

RESPONDENT(S)/STATE:

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

BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
06-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

B. KEMAL PASHA, J.

.....
B.A. No.591 of 2015
.....

Dated this the 6th day of February, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioners are the accused in Crime No.2636/2014 of Mathilakam Police Station registered for the offences punishable under Sections 7 and 8 of the POCSO Act.

3. It is alleged that the 1st petitioner was having illicit relationship with the mother of the victim girl aged 10. The 2nd petitioner is none other than the maternal uncle of the victim girl. The allegation against the petitioners is that they have repeatedly committed sexual assault on the victim girl

by touching on her private parts.

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

5. The learned counsel for the petitioners has pointed out that the complaint is one mooted by the father of the victim girl, who is in loggerheads with the petitioners. According to the learned counsel for the petitioners, a case was instituted by the wife of the *defacto complainant* alleging offences under Sections 498A etc. against the *complainant*. Another case was also instituted by the wife of the *defacto complainant* alleging offences under Sections 406, 420, etc. against the *defacto complainant* and his brother. According to the learned counsel for the petitioners, it was only thereafter, the present complaint was preferred.

6. On going through the contents of the CD, I find there are materials to bring out the complicity of the petitioners. The matter has to be thoroughly investigated.

Considering the seriousness of the allegations against the petitioners, I am of the view that this is not a fit case wherein anticipatory bail can be granted. At the same time, on account of the facts pointed out by the learned counsel for the petitioners as aforesaid, I am of the view that this is a fit case wherein an opportunity can be granted to the petitioners to surrender before the investigating officer and to co-operate with the investigation.

In the result, this Bail Application is dismissed. At the same time, if so advised, the petitioners may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioners, effect recovery if any, and conduct the investigation and produce the petitioners without delay before the concerned Judicial First Class Magistrate's Court, where the petitioners can move for bail. In such case, the learned Magistrate shall pass appropriate orders, preferably

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on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/06/02

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PA to Judge