

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

Bail Appl..No. 740 of 2015

CRIME NO.2928/2014 OF CHAVARA POLICE STATION , KOLLAM DISTRICT

PETITIONER(S)/ACCUSED :

**EMMANUAL THOMAS, AGED 25 YEARS,
S/O.THOMAS, AHANA, CHERUSSERY BHAGAM,
CHAVARA.**

**BY ADVS.SRI.RAJA VIJAYARAGHAVAN
SRI.M.T.SURESHKUMAR**

RESPONDENT(S)/COMPLAINANT :

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

**BY PUBLIC PROSECUTOR SRI.SREEJITH V.S
ADV. SRI.SUNNY ZACHARIAH FOR DEFACTO COMPLAINANT**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 05-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

B.KEMAL PASHA, J.

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B.A. No.740 of 2015

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Dated this the 5th day of March, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.2928 of 2014 of the Chavara Police Station, registered for the offences punishable under Sections 420, 376 and 506(i) of the Indian Penal Code and Section 66(E) of the Information Technology Act.

3. The allegation against the petitioner is that he had enticed the defacto complainant woman and sexually harassed her and fraudulently obtained amounts from her with a view to committing cheating on her. It is alleged that he had subjected her to illicit sexual intercourse on 03.08.2010 and on different occasions. He had allegedly videographed pornographic scenes and by making use of the same, he intimidated her and obtained an amount of Rs.2,50,000/- from her on different occasions.

4. It seems that the crime has been registered on the basis of a private complaint filed by the defacto complainant

before the Judicial First Class Magistrate's Court, Chavara, which was referred to the Police for investigation under Section 156(3) Cr.P.C.

5. Heard learned counsel for the petitioner, learned counsel for the defacto complainant and learned Public Prosecutor.

6. The learned counsel for the petitioner has pointed out that the defacto complainant was madly in love with the petitioner, who was an Engineering student, and she wanted him to marry her. The learned counsel for the petitioner has produced the Diary written and kept by the defacto complainant, which she had handed over to the petitioner, as a token of her love and affection towards him. The contents of the Diary is in the handwriting of the defacto complainant, which clearly shows that she was madly in love with him and that she wanted him to be her life partner. The contents of the Diary do not reveal any sexual contacts between them or any allegation that he had received any amounts from her. Over and above it, the learned counsel for the petitioner has produced the entire face book accounts of the defacto

complainant, which also shows that she had unilaterally written all the messages to the petitioner, by expressing her deep sentiments, love and affection towards the petitioner. Apart from that, those writings also do not reveal any sexual contacts between them or any photographs or videos taken by him or any money allegedly obtained by him from her. Over and above it, the learned counsel for the petitioner has invited the attention of this Court to Annexure-5 complaint preferred by her before the Sub Inspector of Police, Chavara. The contents of Annexure-5 complaint reveals that she was in love with the petitioner for the last 7 years and by way of several instalments the petitioner had obtained an amount of Rs.2,00,000/- from her. Now her complaint is that presently, by washing hands, he is attempting to escape from her. Apart from that, she has no other complaints. She had revealed in Annexure-5 that there were sexual contacts between them. At the same time, she has no complaints in Annexure-5 that he had subjected her to rape or he had threatened or intimidated her. When the private complaint has come, it seems that she has resorted to the other contentions that she

was intimidated by him, and through intimidatory tactics, he had squeezed money from her etc. etc.

7. On hearing all the parties and on a perusal of the records, I do not think that the custodial interrogation of the petitioner is required for the continued investigation in a case like this. At the same time, the petitioner has to co-operate with the investigation. Considering the facts and circumstances of the case and the present stage of investigation, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioner.

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 Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties for the like sum each 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 all Thursdays and Mondays commencing from 12.03.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(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

DSV/5/3/15

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P.A. To Judge

