

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

Bail Appl..No. 913 of 2015 ()

CRIME NO. 1962/2014 OF CHAVAKKAD POLICE STATION,THRISSUR DISTRICT

PETITIONER/ACCUSED:

**FATHIMA.A., AGED 58 YEARS,
W/O ABDUL KARIM T., THEKKARATH HOUSE, ANJANGADI DESOM,
KADAPPURAM VILLAGE, CHAVAKKAD, THRISSUR DISTRICT.**

**BY ADVS.SRI.P.K.SAJEEV
SRI.P.P.HARRIS**

RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT.LALIZA.T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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B.KEMAL PASHA, J.

B.A.No.913 of 2015

Dated this the 19th day of March 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.1962/2014 of Chavakkad Police Station, Thrissur district registered for the offences punishable under Sections 323 and 324 of the I.P.C. and 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the Act')

3. It is alleged that a girl belongs to Scheduled caste was engaged as a servant maid at the house of the petitioner. It is alleged that the husband of the petitioner had outraged the modesty of the girl and thereby, Crime No.1862/2014 was registered against the husband of the petitioner as A1 and the petitioner as A2. A1 in

the said crime was arrested, detained and subsequently, enlarged on bail, through Annexure-A1 order dated 20.11.2014. It seems that the petitioner had also moved for anticipatory bail in the said case before the court below. In Crime No.1862/2014, the offences alleged were the offences under Sections 354, 354A, 354B, 323, 324 and 506(i) of the I.P.C. and Sections 7 and 8 of Protection of Children from Sexual Offences Act, 2012 and also Section 3(1)(xi) of the Act. When the application seeking for anticipatory bail filed by the petitioner herein, who was A2 in Crime No.1862/2014, came up for hearing, the Investigating Officer has specifically taken a stand that the name of the petitioner herein was deleted from the array of the accused and that she was not an accused in the crime. Recording the said submission, it seems that the court below has closed the said application seeking anticipatory bail, vide Annexure-A2 order dated 15.12.2014.

4. It seems that thereafter, the Investigating Officer has

registered the present crime by incorporating Sections 323 and 324 of the I.P.C. and Section 3(1)(x) of the Act. The allegations against the petitioner is that the *defacto complainant* victim was beaten up by the petitioner with a broom and she was slapped.

5. Heard learned counsel for the petitioner and learned senior Public Prosecutor.

6. It seems that the Investigating Officer has taken a stand that the petitioner has not committed any offence under Section 3(1)(xi) of the Act. The present allegation is that the *defacto complainant* was slapped and beaten up with a broom by the petitioner and thereby, she has committed offences under Sections 323 and 324 of the I.P.C. and 3(1)(x) of the Act. At any stretch of imagination, there are no materials to bring out an offence under Section 3(1)(x) of the Act in the matter. In order to bring out an offence under Section 3(1)(x) of the Act, the accused should intentionally insult, or intimidate with intend to humiliate a

member of Schedule Caste or Scheduled Tribe, in public view. There is no allegation that the petitioner had insulted or intimidated the *defacto complainant* in public view. At the same, the allegation is that the *defacto complainant* was beaten up with broom, inside the house. There are no materials to bring out an offence under Section 3(1)(x) of the Act in the matter, as against 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.

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

all Thursdays and Mondays commencing from 26.3.2015 for a period of three months.

(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

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PA to Judge