

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR**

**THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937**

**Bail Appl..No. 1138 of 2015**  
-----

**CRIME NO. 109/2015 OF POTHANIKADU POLICE STATION , ERNAKULAM**  
-----

**PETITIONER(S)/ACCUSED :**  
-----

**SUBAIR.M.B., AGED 38 YEARS,  
S/O.BAVA PILLAI, MADATHUMPADIYIL HOUSE, KOOVALOOR P.O.,  
PALLARIMANGALAM, KOTHAMANGALAM.**

**BY ADVS.SRI.A.T.ANILKUMAR  
SMT.V.SHYLAJA**

**RESPONDENT(S)/COMPLAINANT AND STATE :**  
-----

- 1. STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. SUB INSPECTOR OF POLICE,  
POTHANIKADU POLICE STATION, ERNAKULAM DISTRICT.**

**BY PUBLIC PROSECUTOR SRI.N.SURESH**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 25-06-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

Msd.

B.SUDHEENDRA KUMAR, J.

-----  
Bail Application No.1138 of 2015 C  
-----

Dated this the 25<sup>th</sup> day of June 2015

O R D E R

The petitioner is the sole accused in Crime No.109 of 2015 of Pothanokadu Police Station registered under Sections 341, 323, 354, 294(b) and 506(1) of the Indian Penal Code.

2. The prosecution allegation is that on 09.02.2015 at about 9.45 a.m., while the de facto complainant, who was a teacher in the L.P.School, Kudamunda, was proceeding to the school, the petitioner wrongfully restrained her and caught hold of her neck. The petitioner also uttered obscene words against her and threatened her. It is further alleged that the blouse of the de facto complainant was torn by the petitioner. The petitioner also pushed the chest of

the de facto complainant and thereby outraged the modesty of the de facto complainant.

3. The petitioner filed this application under Section 438 of the Code of Criminal Procedure.

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

5. The learned Public Prosecutor has opposed the application. The learned counsel for the petitioner has submitted that the petitioner is innocent and that the petitioner has been falsely implicated in this case, as the petitioner did not repay the amount borrowed by him from the husband of the de facto complainant. However, there is absolutely no material before the court to prima facie indicate that the contention of the petitioner is probable. That apart, the

investigation is only at the infancy stage. Therefore, it is not possible to hold at this stage that the petitioner is innocent. Suffice it to say that there are materials to prima facie connect the petitioner with the commission of the offence. The offence alleged against the petitioner is very grave in nature. Considering the nature and gravity of the offence alleged against the petitioner, an order under section 438 Cr. P.C. in favour of the petitioner will not be justified in this case.

In the result, this application stands dismissed. However, the petitioner shall be at liberty to surrender before the Investigating officer within ten days from today, if so advised. In the event of such surrender by the petitioner before the Investigating Officer, the Investigating Officer shall produce the petitioner before the jurisdictional Magistrate Court after interrogation. If the petitioner files any application for bail at the time of his production before the jurisdictional Magistrate, the learned Magistrate shall consider and dispose of the

application, in accordance with law, as expeditiously as possibly. I make it clear that this order will not be a bar for the investigating officer in filing any application seeking for police custody of the petitioner.

sd/-  
B.SUDHEENDRA KUMAR,  
JUDGE

AMV/25/06/

/TRUE COPY/

P.A.TO JUDGE