

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

Bail Appl..No. 1161 of 2015

CRIME NO. 145/2015 OF NEDUMKANDAM POLICE STATION , IDUKKI

APPLICANT/ACCUSED:-:

**VISHNU SOMAN, AGED 22 YEARS
S/O.SOMAN, KALIYICKAL HOUSE, BAISANVALLY P.O.
SOCIETY MEEDU, IDUKKI DISTRICT.**

**BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.THOMAS J.ANAKKALLUNKAL**

RESPONDENT(S)/COMPLAINANT:-:

**STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE
NEDUMKANDAM POLICE STATION THROUGH PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.LALIZA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31-03-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

B. KEMAL PASHA, J.

.....
B.A. No.1161 of 2015
.....

Dated this the 31st day of March, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.145/2015 of Nedumkandam Police Station registered for the offences punishable under Sections 376(1), 493 and 420 IPC.

3. This is a case wherein a 44 year old widow had raised allegations of rape against her driver, aged 22 years, who is the petitioner herein. She has alleged that on the *Thiruvonam* day of 2013 during night at 2 O'clock, on 06.09.2013, 07.09.2013, 09.05.2014, 10.05.2014 and 11.05.2014 and on all Saturdays for the period from 21.05.2015 to 30.08.2014 and on 14.01.2015, the petitioner committed rape on the de facto complainant woman.

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

5. The learned Senior counsel for the petitioner has pointed out that there were some financial transactions between the parties, for which the de facto complainant had filed a complaint before the Kattappana police and the matter was, in fact, discussed and a settlement was arrived at. It was when the petitioner married another girl, the de facto complainant has chosen to raise the present complaint.

6. The Sub Inspector of Police, Kattappana has filed a report stating that the de facto complainant had filed a complaint before him at Kattappana Police Station by complaining that an amount of ₹4,50,000/- and 4 sovereigns of gold ornaments was due to her from the petitioner and she had sought for the assistance of the police in recovering the said amount and the gold ornaments from the petitioner. Based on the complaint, the parties were summoned to the Police Station and finally, a compromise was arrived at and an agreement was entered into between the parties. It

seems that in her complaint preferred before the Kattappana Police Station on 16.02.2014, she had no case that she was raped by the petitioner. At the same time, it seems that subsequently she has raised such a complaint against the petitioner, just after three days, before the Nedumkandam Police Station. Considering the facts and circumstances of the case and the present stage of the investigation, I do not think that the custodial interrogation of the petitioner is required for the continued investigation of this case. 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 Tuesdays and Fridays commencing from 07.04.2015 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)

aks/31/03

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PA to Judge