

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

Bail Appl..No. 1453 of 2015

CRIME NO. 1529/2014 OF NOORANADU POLICE STATION , ALAPPUZHA

PETITIONER(S)/ACCUSED:

**BIJU, AGED 41 YEARS
S/O. PAPU, LYJU BHAVAN,
KALLIMEL MURI, NETTIYAR VILLAGE
POOVALLETHU VEEDU, CHERUVALLOR MURI
CHERIYANADU VILLAGE.**

**BY ADVS.SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL**

RESPONDENT(S)/COMPLAINANTS:

**STATE OF KERALA
REP. BY PUBLIC PROSECUTOR , HIGH COURT OF KERALA
ERNAKULAM -682031.**

BY PUBLIC PROSECUTOR SRI.C.RASHEED

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25-03-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

B. KEMAL PASHA, J.

.....
B.A. No.1453 of 2015
.....

Dated this the 25th day of March, 2015

ORDER

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Petition filed under Section 439 Cr.P.C.

2. Petitioner is the accused in Crime No.1529/2014 of Nooranadu Police Station registered for the offences punishable under Sections 468 and 509 IPC and Sections 66A and 67 of the Information Technology Act.

3. The allegation against the petitioner is that he, with intend to defame the de facto complainant woman and her family members, posted their photographs in the 'Facebook' by opening a false account in the name of one 'subi kp mavelikara' and repeatedly made abusive and vulgar comments in it for the period from 06.11.2014 onwards. The petitioner has been in custody for the period from 12.02.2015 onwards.

4. Heard learned counsel for the petitioner and the

learned Senior Public Prosecutor.

5. The learned Senior Public Prosecutor has pointed out that the petitioner is an accused in 14 other cases and in most of those cases, he had allegedly committed the offence punishable under Section 354 IPC. The records of this case also show that on many occasions, he had trespassed into the house of the de facto complainant woman in the absence of her husband and he used to molest her and outrage her modesty. On the last of such occasion, she was caught hold of and she was caught by her neck and he had, in fact, attempted to commit throttling. On hearing her cries, the neighbours gathered and then, he retracted. It seems that the petitioner is a menace to the local people, especially the women of the locality. Presently, it seems that Section 66A of the Information Technology Act has been declared as ultravires to the Constitution by the Apex court. The other non bailable offence alleged under Section 468 IPC seems to be one which cannot be attracted

in this case. Matters being so, this Court is compelled to grant bail to the petitioner as the other offences are bailable. Considering the conduct of the petitioner, this Court is of the view that stringent conditions are to be imposed for enlarging the petitioner on bail.

6. In the result, this Bail Application is allowed and the petitioner shall be enlarged on bail on his executing a bond for ₹1,00,000/- (Rupees one lakh only) with two solvent sureties for the like sum each to the satisfaction of the concerned Judicial First Class Magistrate's Court, and subject to the following terms and conditions:-

*(i) Both the sureties shall produce solvency certificates for ₹1,00,000/- each before the court below.*

*(ii) The petitioner shall report before the Investigating Officer in between 9 a.m. and 11 a.m. on all Wednesdays and Saturdays commencing from the date on which he is released on bail for a period of six months.*

*(iii) Except for observing condition No.(ii) above, the petitioner shall not enter into Alappuzha district for a period of six months from the date on which he is released on bail.*

*(iv) The petitioner shall neither contact the de facto complainant or her family members, nor shall he make any attempt for the same.*

*(iv) The petitioner shall not tamper with the evidence or influence witnesses.*

*(v) The petitioner shall make himself available for interrogation as and when required by the Investigating Officer.*

*(vi) 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/25/03

// True copy //

P.A. to Judge.