

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

BAIL APPL..NO. 1670 OF 2015 ()

CRIME NO. 326/2013 OF POTHENCODE POLICE STATION.
.....

PETITIONER/3RD ACCUSED:

RATHEESH, AGED 33 YEARS,
S/O.MURALEEDHARAN NAIR,
PUTHUVAL PUTHEN VEEDU,
RETHEESH BHAVAN, NEAR VISHUMANGALAM
SHETRAM KALLU VETTI MANNA LANE NO.9,
KEEZHUTHONNIKKAL VILLAGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.R.SARIN.

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
POTHENCODE POLICE STATION,
THIRUVANANTHAPURAM.

BY SRI.TOM JOSE PADINJAREKARA, ADDL. D.G.P.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 09-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

rs.

B. KEMAL PASHA, J.

.....
B.A. No.1670 of 2015
.....

Dated this the 9th day of April, 2015

ORDER

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Petition filed under Section 439 Cr.P.C.

2. Petitioner is the 3rd accused in Crime No.326/2013 of Pothencode Police Station registered for the offences punishable under Section 376D IPC and Section 3 (1)(xii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The allegation is one of gang rape. It is alleged that the unfortunate victim was taken away by her husband, who is the 1st accused, along with his friends including this petitioner to a lonely house, where they enjoyed by committing gang rape on her. The petitioner has been in custody for the period from 10.01.2015 onwards. The

unfortunate woman is the member of a Scheduled Caste, whereas the accused are not the members of any Scheduled Caste or Scheduled Tribe.

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

5. Even though the petitioner has been in custody for the period from 10.01.2015 onwards, the investigation is not over and the final report has not been filed in the matter. Matters being so, this is a case wherein the petitioner is entitled to compulsive bail under Section 167(2) Cr.P.C.

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) The petitioner shall report before the Investigating Officer in between 9 a.m. and 11 a.m. on all Thursdays and Mondays commencing from

16.04.2015 for a period of six months.

(ii) Except for observing condition No.(i) above, the petitioner shall not enter into Thiruvananthapuram district for a period of six months from today.

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

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

(v) 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/09/04

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PA to Judge