IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 8TH DAY OF MAY 2015/18TH VAISAKHA, 1937

Bail Appl..No. 1979 of 2015

AGAINST THE ORDER IN CRL.M.C NO.65/2015 OF THE SESSIONS COURT,THODUPUZHA DATED 23-02-2015
CRIME NO. 713/2014 OF RAJAKKAD POLICE STATION, IDUKKI

PETITIONER/ACCUSED:

PRAJEESH, AGED 27 YEARS,
S/O.JAYARAJAN, CHURAKKUNNEL HOUSE,
ERNAJIMANGADU P.O,
AKAMPADAM VILLAGE,
NILAMBUR TALUK, MALAPPURAM DISTRICT.

BY ADVS.SRI.KRISHNADAS P. NAIR
SMT.K.L.SREEKALA
SRI.HARIDAS P.NAIR

RESPONDENT:

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

BY PUBLIC PROSECUTOR SRI.ROY THOMAS

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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P.UBAID, J.

B.A No.1979 of 2015

Dated this the 8th day of May, 2015

O R D E R

The petitioner herein seeks pre arrest bail on the apprehension of arrest in Crime No.713/2014 of Rajakkadu Police Station, registered under Section 376 of the Indian Penal Code. During investigation the police incorporated Sections 3 (1)(xi) and 3(2)(v) of the SC/ST (Prevention of Atrocities) Act. In view of the prohibition contained under Section 18 of the SC/ST Act, pre arrest bail cannot be granted to the accused. However, he can very well approach the learned Magistrate having jurisdiction and make application for bail under Section 437 of the Code of Criminal Procedure. Though pre arrest bail is not possible, regular bail can be granted by the learned Magistrate having jurisdiction, if it is a fit case where discretion can be exercised by the learned Magistrate. This is an area where there is possibility of the special law being misused. It appears that the petitioner and the victim had an illicit affair for a year and during this period they had even physical contacts. It is doubtful

whether, in such a circumstance it can be said to be a case of exploitation of a member of Scheduled Caste. Anyway, let the matters be gone into by the learned Magistrate, and let appropriate decision regarding bail be taken.

In the result, this application for bail is disposed with a direction to the learned Magistrate having jurisdiction that in case application for bail under Section 437 of the Code of Criminal Procedure is filed on surrender or on arrest in Crime No. 713/2014 of Rajakkadu Police Station, the same shall be judiciously considered and decided on the date of surrender/production itself, however with notice to the other side.

P.UBAID
JUDGE

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