

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

Bail Appl.No. 2098 of 2015

CRIME NO. 803/2014 OF KOTTAKKAL POLICE STATION, MALAPPURAM
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PETITIONER(S)/2ND ACCUSED:

**ASHRAF M.K., AGED 44 YEARS,
S/O.KUNJIKAMMAD (LATE), KAVATHIKAKALAM, KOTTOOR,
KOTTAKKAL, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.P.SAMSUDIN
SRI.M.S.MOHAMMED ANSARY
SRI.JITHIN LUKOSE**

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.MADHUBEN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
10-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

SUNIL THOMAS, J.

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B.A.No.2098 of 2015

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Dated this the 10th day of July, 2015

ORDER

This application for pre-arrest bail is filed by the second accused in crime No.803 of 2014 of the Kottakkal Police Station for offence punishable under Section 377 of the Indian Penal Code, Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 and Section 23 of the Juvenile Justice (Care and Protection of Children) Act 2000.

2. Allegation of the prosecution is that the accused had sexually assaulted a minor boy on several days preceding the date of lodgment of the FIS. It is stated that the child revealed about the series of incidents involving the accused to the child line workers. They alerted the police which ultimately resulted in the registration of the crime. Petitioner apprehends arrest and has approached this Court seeking pre-arrest bail.

3. Heard both sides and examined the records.

4. Learned counsel for the petitioner vehemently contended that there was considerable delay in lodging the FIS. It was further contended that the victim himself had filed an affidavit stating that

the alleged crime has not taken place. This affidavit appears to have been placed before the learned Sessions Judge while moving a pre-arrest application before that Court. However, the court below did not consider it fit and proper to rely on that affidavit.

5. The allegation against the petitioner is very serious. Granting of anticipatory bail may hamper the proper and effective investigation. However, in the course of investigation, it is for the investigating agency to consider whether the affidavit alleged to have been given by the victim, is genuine and whether he has voluntarily retracted from the earlier version.

In the result, no merit in the bail application. It is accordingly dismissed.

Sd/-

SUNIL THOMAS
Judge

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