

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

Bail Appl..No. 2194 of 2015

**CRIME NO.1369 OF 2014 OF VARAPPUZHA POLICE STATION,
ERNAKULAM DISTRICT**

PETITIONER(S)/1ST ACCUSED (UNDER JUDICIAL CUSTODY SINCE 12.02.2015) :

**JOJI JOSE, AGED 28 YEARS,
S/O.JOSE, THANNIKKOTTU HOUSE, KOONAMMAVU P.O,
PIN:683 518, VARAPUZZHA VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.K.C.ELDHIO
SRI.JIJO THOMAS**

RESPONDENT(S)/COMPLAINANT :

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

BY PUBLIC PROSECUTOR SRI.C.RASHEED

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 28-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

K. RAMAKRISHNAN, J.

.....
B.ANo.2194 of 2015
.....

Dated this the 28th day of April, 2015.

O R D E R

This is an application for regular bail filed by the first accused in Crime No.1369/2014 of Varapuzha police station under section 439 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that the accused had committed rape of the defacto complainant, who was married to him under the provisions of the Special Marriage Act, against her will and also cheated her by misappropriating huge amount and demanded more dowry and physically caused hurt by the petitioner and other accused persons and also took some naked photographs and threatened her to submit for demands otherwise it will be published and thereby all of them have committed the offences punishable under sections 376(2) (b), 420, 498 A of the Indian Penal Code and section 66(E) of the Information Technology Act.

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

4. The learned counsel for the petitioner submitted that

the petitioner has not committed any offence and he is innocent of the same. In fact both of them were working in Kerala Water Authority and they were in love. They were conducted marriage under the provisions of the Special Marriage Act and due to some difference of opinion, they fell apart and misusing the provisions of the Act, a false case has been foisted against him, his parents and other relatives. The other accused were already granted anticipatory bail by this Court. Further, the petitioner is in custody from 12.2.2015 onwards and final report has not been filed so far. So he prayed for allowing the application.

5. The application was opposed by the Public Prosecutor on the ground that investigation is not over and if he is released on bail, he is likely to influence the witnesses and abscond. Perused the case diary file as well.

6. It is seen from the records that the above case was originally registered on the basis of the statement given by the defacto complainant as Crime No.1369/2014 against the petitioner, his parents, sister and sister's husband alleging offences under section 498 A, 376 and 420 of the Indian

Penal Code. Later, during investigation, it was revealed that offence under section 66(E) of the Information Technology Act was also committed. So that section was incorporated. It is seen from Annexure-A7 order that sessions court has granted anticipatory bail to accused 2 to 4 as per the order in Crl.M.C.No.1830/2014 dated 10.10.2014 and the application for anticipatory bail filed by the present petitioner was dismissed as per AnnexureA7 common order. Later he was arrested and the bail application filed by him was dismissed by Annexure-A8 order of the sessions Court. On going through the records, it is seen that major portion of the investigation is over and custody of the petitioner is not required any more in connection with the investigation. I am not going into the question regarding the genuineness of the allegations made and whether the allegations are sufficient to attract the offence alleged as it is matter for the court to consider and pass appropriate findings on facts. Investigation is not over and it is not known as to how much time for the investigating officer to submit the final report in this case. If the court is satisfied that custody of the petitioner is not required any more in connection with the

investigation, this Court can grant bail to the petitioner. Considering the over all circumstances of the case and also the period of pre-trial investigation and the stage of investigation, this Court feels that bail can be granted to the petitioner with some stringent conditions. So, the application is allowed with the following conditions.

i. The petitioner shall be released on bail on executing a bond for Rs.50,000/- with two solvent sureties for the like sum each to the satisfaction of the Judicial First Magistrate Court-III, North Paravur.

ii. The petitioner shall appear before the investigating officer on all Mondays and Saturdays between 9 a.m and 10 a.m for a period of two months and thereafter on the last Saturday of every month between the same timings till the final report is filed.

iii. The petitioner shall appear before the investigating officer for the purpose of interrogation in connection with the above crime as and when required in writing to do so till the final report is filed.

iv. The petitioner shall not intimidate or influence the

witnesses.

v. The petitioner shall not enter the jurisdiction of Varapuzha police station except for the purpose of complying conditions 2 and 3 without getting prior permission from Judicial First Class Magistrate Court-III, North Paravur till the final report is filed

vi. The petitioner shall surrender his passport, if any, before the Judicial First Magistrate Court-III, North Paravur within one week from the date of release or if he is not having any passport, file an affidavit to that effect before that court within that time.

vii. The petitioner shall not leave Ernakulam district without getting prior permission either from the Judicial First Magistrate Court-III, North Paravur or from the court to which the case will be committed for trial till the disposal of the case.

With the above conditions, this application is allowed.

Sd/-
K. RAMAKRISHNAN, JUDGE.

cl

/true copy/

P.S to Judge

