

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 5TH DAY OF MAY 2015/15TH VAISAKHA, 1937

Bail Appl..No. 2343 of 2015

CRIME NO. 775/2015 OF ALUVA EAST POLICE STATION , ERNAKULAM

PETITIONER/ACCUSED:

**VINEETH, AGED 26 YEARS
S/O.RAJAN, VALAVIL HOUSE, V.K.C. P.O
ALUVA EAST VILLAGE, ALUVA TALUK, ERNAKULAM DISTRICT.**

BY ADV. SRI.DINESH MATHEW J.MURICKEN

RESPONDENT/COMPLAINANT:

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM**

BY PUBLIC PROSECUTOR SRI.SHIBU JOSEPH

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

PJ

K. RAMAKRISHNAN, J.

B.A. No.2343 of 2015

Dated this the 5th day of May, 2015

ORDER

This is an application from regular bail filed by the sole accused in Crime No.775/2015 of Aluva East Police Station under Section 439 of Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that on 15.02.2015 at 12.00 o' clock and also during the 2nd week of March 2015 during night, the accused had committed rape on the defacto complainant who is a minor girl belongs to Scheduled Caste aged 17 years and thereby he had committed the offence punishable under Section 376 of Indian Penal Code and Section 3(a) read with Section 4 of Protection of Children from Sexual Offences Act, 2012 and 3(2)(V) of the Scheduled Caste & Tribe (Prevention of Atrocities Act), 1989.

3. I have heard the learned counsel for the petitioner Sri Abhilash K.A. and the learned Public Prosecutor Sri Shibu Joseph and perused the Case Diary as well.

4. The learned counsel for the petitioner submitted that

the petitioner has not committed any offence and he is innocent of the same and he has been falsely implicated in the case and he is in jail from 17.03.2015 onwards; his custody is not required anymore in connection with the investigation.

5. The learned Public Prosecutor vehemently opposed the application on the ground that the investigation is not over and if he is released on bail, he is likely to interfere with the investigation.

6. It is seen from the casd diary filed that the above case was registered on the basis of a complaint received from Vanitha Cell, Aluva, where the victim girl had made a complaint alleging that the accused had intercourse with her on the promise of marriage on two occasions. On receipt of this complaint, the Aluva Police registered Crime No.775/2015 of Aluva East Police Station alleging offences under Sections 376 of Indian Penal Code and Section 3(a) read with Section 4 of Protection of Children from Sexual Offences Act, 2012 and 3(2)(V) of the Scheduled Caste & Tribe (Prevention of Atrocities Act), 1989 as the victim girl belongs to Scheduled Caste. The victim is aged 17 years at the time of the alleged commission of offence. I am not at this stage going to the question as to whether the accused

had committed any offence or whether the allegations are sufficient to attract the offence alleged or not as it is a matter to be considered on evidence. The petitioner was arrested on 17.03.2015 and he is in jail from that day onwards. The victim girl as well as the present petitioner were subjected to medical examination and the main witnesses were questioned and their statements were also recorded. I am also not at this stage going to the question regarding the delay in intimating the matter as well. The investigation is almost over. The custody of the petitioner is not required anymore in connection with the investigation.

So considering the period of pretrial detention and the stage of investigation, this Court feels that bail can be granted to the petitioner with some stringent conditions.

The application is allowed with the following conditions.

1. The petitioner shall be released on bail on his executing bond for Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties for the like sum to the satisfaction of the Judicial First Class Magistrate Court, Aluva or the Special Court if any constituted for the purpose for

trying offence against atrocities on women.

2. The petitioner shall appear before the Investigating Officer on all Mondays and Saturdays between 9.00 a.m and 10.00 a.m for a period of two months and thereafter on the last Saturday of every month between the same timings till final report is filed.

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

4. The petitioner shall not leave Ernakulam District without getting prior permission either from the Judicial First Class Magistrate Court, Aluva or from the Special Court before whom the case is pending till the disposal of the case.

5. The petitioner shall not enter the jurisdiction of Aluva Police Station without getting prior permission either from the Judicial First Class Magistrate Court, Aluva or from the Special Court before whom the case is pending except for complying with condition Nos. 2 and 3 till the final report is filed.

6. The petitioner shall surrender their passport if any, before the concerned court before whom the bail application will be moved as mentioned

above within one week from the date of release and if he did not have any passport, file an affidavit to that effect within that time before that Court.

With the above conditions, this application is allowed.

JV

**K. RAMAKRISHNAN,
JUDGE**