

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. 2364 of 2015 ()

CRIME NO. 232/2015 OF VALAPPAD POLICE STATION, TRISSUR

PETITIONER/2ND ACCUSED :

**HARRIS, AGED 39 YEARS,
S/O.RAJAN, VALIPARAMBIL HOUSE,
THALIKULAM, THRISSUR.**

**BY ADVS.SRI.M.SHAJU PURUSHOTHAMAN
SRI.K.S.RAJESH**

RESPONDENT/COMPLAINANT :

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING THE S.I. OF POLICE, VALAPPAD.**

BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

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

bp

P.UBAID, J.

B.A No.2364 of 2015

Dated this the 8th day of May, 2015.

O R D E R

The petitioner herein is the 2nd accused in Crime No.232 of 2015 of the Valappad Police Station, registered under Sections 376, 109, 384, 354 (A) II, 354 (c) r/w 34 of IPC. He seeks regular bail under Section 439 of the Code of Criminal Procedure. The application filed by him for regular bail was dismissed by the learned Sessions Judge, Thrissur on 20.04.2015. The petitioner has been in judicial custody since 23.3.2015.

2. The prosecution case is that on 13.10.2012 the first accused subjected the de facto complainant to forceful sexual intercourse on a promise to marry her. The allegation against the petitioner herein is that he facilitated the act of the first accused, and thus abetted the commission of offence. The complaint in this case was made on 1.3.2015. It is not known what is the reason for this inordinate delay in making

complaint regarding the incident that happened on 13.10.2012.

3. This application for regular bail is opposed by the learned Public Prosecutor on the ground that investigation is still in progress, and that if the accused is now released, it will definitely obstruct the investigation.

4. On hearing both sides, and on a perusal of the materials including the case diary I find that investigation in this case is practically over, and that the petitioner can be now released on appropriate conditions. On a perusal of the case diary, I find that the investigating officer has already questioned the material witnesses. However, the petitioner will have to be directed to report before the investigating officer till investigation is over, to ensure that the remaining part of investigation is not in any manner obstructed. I find that the police has already collected the necessary materials as part of investigation, and I do not find the necessity of continued detention of the petitioner in custody.

5. On a perusal of the materials including the order of the learned Sessions Judge I find something to suspect. It is a matter to be decided by the trial court on trial whether this is in fact a case of rape or sexual exploitation

under some false promise, or a case of intercourse with full consent with the knowledge of all consequences. I find that the petitioner can be released on appropriate conditions. However it is made clear that the first accused will not get the benefit of this order in any manner.

In the result, this application for bail is allowed. The petitioner will be released on bail on his executing bond with two solvent sureties for ₹ 30,000/- (Rupees thirty thousand) to the satisfaction of the learned Judicial First Class Magistrate. Bail is granted on condition that;

- a) The petitioner shall report before the investigating officer between 10 am. and 11 am on all Thursdays for a period of two months.
- b) The petitioner shall not leave the jurisdictional limits of the Valappad Police Station for two months.
- c) The petitioner shall not in any manner influence or intimidate the material witnesses, and he shall not have any contact with the material witnesses directly or over telephone or otherwise.
- d) The petitioner will make a security deposit of ₹ 10,000/- (Rupees ten thousand) in the court below as a further condition for bail. The amount of

security deposit will be released on conclusion of trial. It will be subject to forfeiture in case of absence during trial without sufficient reason.

e. The first accused, who is yet to be arrested and interrogated in custody, will not in manner get the benefit of this order in favour of the second accused.

Sd/-

P.UBAID,
JUDGE

sab