

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.2442 of 2015

**CRIME NO.92/2015 OF MARAYAMUTTAM POLICE STATION,
THIRUVANANDAPURAM.**

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PETITIONER/ACCUSED:

**JOY THOMSON,S/O.THOMSON NADAR,AGED 38 YEARS,
ARATHALA VILAKOM,PERUMKOTTUKONAM,
NADOORKOLLA DESOM,KOLLAYIL VILLAGE,
NEYYATTINKARA,THIRUVANANTHAPURAM.**

BY ADV.SRI.G.SUDHEER

RESPONDENT/STATE:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM-682031.**

BY SENIOR PUBLIC PROSECUTOR SMT.SAREENA GEORGE.

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

pk

P.UBAID, J.

Crl. M.C No. 2442 of 2015

Dated this the 8th day of May, 2015.

O R D E R

The petitioner herein is the sole accused in Crime No. 92 of 2015 of the Marayamuttom Police Station, registered under Section 376 r/w 511 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 the Additional Sessions judge, Thiruvananthapuram on 20.4.2015. The petitioner has been in judicial custody since 4.3.2015.

2. The prosecution case is that on 3.3.2015 at about 9.15 a.m, the petitioner made an attempt to rape the de facto complainant who is none other than his own niece. It is submitted that there is some dispute between the petitioner and the mother of the girl, and that the alleged incident was not in fact an attempted rape.

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. On a perusal of the materials I find that there is reason to believe that this is in fact a case of assault on a lady, amounting to the offence punishable under Section 354 IPC. To constitute the offence of rape or attempted rape something more is required. Anyway in the particular facts and circumstances I do not find the necessity of continued detention of the petitioner when investigation is practically over. He can be released on

appropriate conditions to avoid the possibility of the victim and others being influenced.

5. 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 over.
- b) The petitioner shall not enter the revenue village where the house of the de facto complainant situated, for a period of 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.

Sd/-

P.UBAID,
JUDGE

sab