

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. 2603 of 2015

CRIME NO. 277/2015 OF PERINGOME POLICE STATION, KANNUR
.....

PETITIONER(S)/ACCUSED NO.2:

**NISHAD T., AGED 24 YEARS,
S/O. SALIM, THAYYIL HOUSE, VAYAKKARA P.O.,
PADIYOTTUMCHAL, PERINGOME, KANNUR DISTRICT.**

BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)

RESPONDENT(S):
-----,

- 1. SUB INSPECTOR OF POLICE
PERINGOME POLICE STATION, PIN-670 001.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SRI.ROY THOMAS

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
08-05-2015 ALONG WITH BA.NO.2445/2015 THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:**

msv/

P.UBAID, J.

B.A No. 2603 of 2015

&

B.A No. 2445 of 2015

Dated this the 8th day of May, 2015.

O R D E R

The petitioners herein are the accused Nos. 1 and 2 in Crime No.277 of 2015 of the Peringome Police Station involving the offence under Section 366 A r/w 34 of IPC. The prosecution case is that the first accused enticed a girl below 18 years under the pretext of love and promise to marry her, and they together lived in a distant place with the help of his friends and associates with the object of getting married. The incident happened on 21.03.2015. The girl was later taken into custody by the police and produced before the learned Magistrate having jurisdiction. The first accused surrendered before the learned Magistrate on 13.4.2015, and the second accused surrendered on 21.1.2015. They were remanded to judicial custody by the learned Magistrate, and their application for bail was dismissed by the learned Magistrate. Now they seek bail from this court under Section 439 Cr.P.C.

The petitioner in Crl.M.C No.2445 of 2015 is the first accused and the petitioner in Crl.M.C No.2603 of 2015 is the second accused. The person who actually enticed the girl is the first accused, and the others are his friends and associates who helped him to take the girl from her house. The accused Nos. 3 and 4 have already been granted bail by this court as per the order dated 24.4.2015 in bail application No.2119 of 2015.

2. On hearing both sides and on a perusal of the materials including the case diary, I find that the petitioners can be released on appropriate conditions. This application is opposed by the learned Public Prosecutor on the ground that the petitioners will influence the material witnesses including the girl. The learned counsel for the petitioners submits that the first accused is still ready to marry the girl, and as and when the girl attains majority she will be married by him. On a perusal of the materials, I find that this is in fact a case of elopement with the object of getting married, in view of the objections made by the parents of the girl. Still the act is a punishable offence under the law, the girl being a minor at the time of the alleged incident. The offence committed cannot be undone or condoned on the ground of genuine promise to marry. Still in the matter of bail these aspects can

be considered by the court. On a perusal of the statements given by the girl before the police and the learned Magistrate, I find that the first accused has not in fact exploited her. The genuine purpose is evident, but the alleged act is in fact an offence punishable under the law. In the above circumstance, I feel that the petitioners can be released on regular bail, and I find no necessity for their continued detention.

In the result, these applications for bail are allowed. The petitioners will be released on bail on their executing bond with two solvent sureties for ₹ 30,000/- (Rupees Thirty thousand) each to the satisfaction of the learned Judicial First Class Magistrate. Bail is granted on condition that;

- a) The petitioners shall report before the investigating officer between 10 am. and 11 am on all Thursdays for a period of two months.
- b) The petitioners shall not leave the jurisdictional limits of the Peringome Police station for two months.
- c) The petitioners shall not in any manner influence or intimidate the material witnesses, and they shall not have any contact with the material witnesses directly or over telephone or otherwise.

d) The petitioners will make a security deposit of ₹ 10,000/- each 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