

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

Bail Appl..No. 2836 of 2015

CRIME NO. 145/2015 OF ALAKODE POLICE STATION , KANNUR

PETITIONER(S)/ACCUSED:

**JIMMY JOSEPH, AGED 38 YEARS,
S/O.JOSE, MYLAMPETTY VELLAD AMSOM NADUVIL DESOM,
PATHANPARA P.O. ALAKODE, TALIPARAMBA TALUK,
KANNUR - 670 571.**

BY ADV. SRI.P.B.AJOY

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY SHO OF ALAKODE POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN: 682 031.**

BY PUBLIC PROSECUTOR SRI.SHIBU JOSEPH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29-05-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

K. ABRAHAM MATHEW, J.

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B.A.No. 2836 of 2015(D)

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Dated this the 29th day of May, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is alleged to have committed the offences under sections 376 of IPC read with section 4 of the Protection of Children from Sexual Offences Act, 2012 read with section 3 (2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act,1989.

3. The allegation is that he had sexual intercourse with a child belonging to scheduled tribe. As a result of which, she became pregnant. Learned counsel submits that the allegations are false.

4. Heard .

5. There is no dispute that the victim is now pregnant. She is a child, *prima facie* the petitioner has committed the offences alleged against him. Learned counsel submits that the victim had raised the same allegation against another person, for which the police registered a case. On that ground alone, the Court cannot come to a conclusion that the allegation against the petitioner is false. Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act,1989 takes away the jurisdiction of this Court

B.A.No. 2836 of 2015(D)

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under section 438 Cr.P.C.

In the result, this application is dismissed. Learned counsel submits that the petitioner will surrender before the Investigating Officer; he may do so if he is so advised.

DST

Sd/-
K. ABRAHAM MATHEW
JUDGE

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P.A. To Judge