

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

Bail Appl..No. 3918 of 2015 ()

**CRIME NO. 111/CR/HHW-II/EKM OF THE CBCID HHW-II, ERNAKULAM
CRIME NO. 346/2011 OF NORTH PARAVOOR POLICE STATION, ERNAKULAM**

PETITIONER/ACCUSED :

**KRISHNAKUMAR M.S., AGED 45 YEARS,
S/O.SATHYADEVAN M.S., ATTUKADAVIL HOUSE,
AYIROOR P.O, VARKALA, THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR

RESPONDENTS/STATE & COMPLAINANT :

- 1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.**
- 2. THE DEPUTY SUPERINTENDENT OF POLICE,
C.B.C.I.D., HHW-II, ERNAKULAM.**

R1 & R2 BY PUBLIC PROSECUTOR SRI. C. RASHEED

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 04-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

K. ABRAHAM MATHEW, J.

B.A. No.3918 of 2015

Dated this the 4th day of August 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is accused in Crime No.111/CR/HHW-II/EKM of the CBCID HHW-II, Ernakulam registered for the offences under Secs.366A, 354, 372, 373, 376 and 109 read with Sec.34 of the Indian Penal Code and Secs.4, 5 and 6 of the Immoral Traffic (Prevention) Act. This case was registered on the allegation that a girl aged 16 years was introduced into prostitution by her father and many persons including the petitioner had sexual intercourse with her.

3. Heard both sides.

4. Learned counsel submits that the allegation against the petitioner is false. The case was registered in 07.03.2011. The offences were committed during the period between May 2010 and January 2011.

5. The petitioner was not made an accused at the initial stage. In the statement given by the victim on

22.10.2011, she said that the person whose description has been given in statement also had sexual intercourse with her. The Police made certain enquires and made the petitioner an accused on the suspicion that he answers to the description given in the statement of the victim. One Unnikrishnan who is said to be a friend of the petitioner was arrested and questioned. Learned counsel submits that in his statement also there is no whisper about the involvement of the petitioner. The investigating officer was told that the assailant of the girl was a person who had a Benz car. The investigating officer has not collected any evidence to show that the petitioner had a Benz car. It is said that the victim who was shown the photograph of the petitioner has a suspicion that he is her assailant. The petitioner was working abroad. Learned counsel submits that as the photograph of the petitioner has already been shown to the victim, there is no meaning in conducting a test identification parade also.

6. Now, the only evidence available to identify the assailant is his description given in the statement of

the victim about seven months after the registration of the case. Having regard to these circumstances, I am inclined to grant the prayer of the petitioner.

In the result, the bail application is allowed.

1) The petitioner shall be released on bail after interrogation on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like sum if he is arrested by the Police in connection with this case.

2) He shall appear before the Investigating Officer between 10.00 a.m. and 11.00 a.m. every Wednesday for two months.

3) He shall surrender his passport before the lower court concerned.

4) He shall not leave India without the previous permission of the court of enquiry or the trial court concerned as the case may be.

5) He shall not destroy or tamper with evidence nor shall he get himself involved in

any other criminal case.

6) He shall not intimidate or attempt to influence the witnesses.

7) He shall not contact or communicate the victim or her relatives directly or indirectly.

8) He shall co-operate with investigation of the case.

In case of violation of any of the above conditions, the learned Magistrate is empowered to cancel the bail in accordance with the law.

Sd/-
K. ABRAHAM MATHEW
JUDGE

/ True Copy /

NS

P.A. To Judge