

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

Bail Appl..No.5040 of 2015 (D)

AGAINST THE ORDER IN CRL.MP 2439/2013 of SESSIONS COURT,KOTTAYAM
DATED 13/8/2013
CRIME NO. 1414/2013 OF CHANGANASSERY POLICE STATION , KOTTAYAM

PETITIONER/ACCUSED NO.1:

PRASANTH S.THOMAS, AGED 30 YEARS
S/O SCARIA THOMAS, KARIMATTOM HOUSE, PERUNNA PO
CHANGANACHERRY VILLAGE, CHANGANACHERRY TALUK
KOTTAYAM DISTRICT

BY ADV. SRI.V.S.THOSHIN

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM THROUGH THE SUB INSPECTOR OF POLICE
CHANGANACHERRY POLICE STATION, KOTTAYAM-695001.

BY PUBLIC PROSECUTOR SRI.C.K.JAYAKUMAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
02-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

BABU MATHEW P. JOSEPH, J.

B. A. No.5040 of 2015

Dated this the 2nd day of September, 2015

ORDER

This petition is filed under Section 438 of Cr.P.C for anticipatory bail.

2. Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor appearing for the respondent.

3. The petitioner is the first accused in Crime No.1414 of 2013 of Changanacherry Police Station. The offences alleged are under Sections 376, 377 and 506(1) of IPC. The allegation is that the petitioner committed rape on the de facto complainant and also she was subjected to unnatural sex during the period between 01-12-2011 to 05-12-2012 promising to marry her. Learned counsel for the petitioner submits that the petitioner is innocent of the allegations raised against him. The de facto complainant preferred a private complaint before the Judicial First Class

Magistrate's Court-I, Changanacherry, on 29-07-2013 alleging these offences against the petitioner and based on that complaint, the police have registered this case. The fact that the de facto complainant preferred a complaint against the petitioner only on 29-07-2013 for the alleged offences committed during the period between 01-12-2011 to 05-12-2012 itself shows the falsity of the complaint. The petitioner has no criminal antecedents. The investigation of the case is almost over. The custodial interrogation of the petitioner is not required in this case. If the investigating agency wants to subject the petitioner to potency test, the petitioner is ready and willing to undergo the same as desired by the investigating agency. He further submits that the petitioner apprehends arrest by the police at any time.

4. Learned Public Prosecutor has opposed this petition. He submits, on instructions, that the investigation is yet to be completed even though it has progressed much. No criminal antecedents have been reported against the petitioner. He further submits that the petitioner has to

undergo the potency test as part of the investigation. On considering the facts and circumstances and the stage of the investigation, this Court is of the considered view that the petitioner can be granted anticipatory bail imposing appropriate conditions.

5. Therefore, the petitioner is granted anticipatory bail subject to the following conditions:

- 1)The petitioner shall surrender before the Investigating Officer on or before 22-09-2015. In the event of his arrest, he shall be released on bail on his executing a bond for ₹ 25,000/- (Rupees twentyfive thousand only) with two solvent sureties each for the like sum to the satisfaction of the Investigating Officer.
- 2)The petitioner shall subject himself to potency test as and when directed by the Investigating Officer.
- 3)The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to

dissuade him or her from disclosing such facts to the Court or to any Police Officer.

4)The petitioner shall make himself available for interrogation as and when required by the Investigating Officer.

5)The petitioner shall not influence or intimidate the prosecution witnesses nor shall he attempt to tamper with the evidence for the prosecution.

6)The petitioner shall not commit any similar offence while on bail.

7)The petitioner shall not leave India without the previous permission of the concerned Magistrate's Court.

This petition is allowed as above.

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE

