

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

Bail Appl..No. 5067 of 2015

**CRL.MC 1218/2015 OF SESSIONS COURT, MANJERI
CRIME NO. 572/2015 OF PANDIKAD POLICE STATION, MALAPPURAM**

PETITIONER(S)/ACCUSED:

**ABDUL JALEEL M., AGED 32 YEARS,
S/O.ABOOBACKER, MUTTUMMAL HOUSE, MUDIKKODE,
PANTHALLOOR, MALALAPPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S)/STATE & COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
PANDIKKAD POLICE STATION,
MALAPPURAM DISTRICT-676 521.**

BY PUBLIC PROSECUTOR SMT.T.Y.LALIZA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08-09-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

A.HARIPRASAD, J.

B.A.No.5067 of 2015

Dated this the 8th day of September, 2015

ORDER

Application filed under Section 438 of the Code of Criminal Procedure.

2. Petitioner is the accused in Crime No.572 of 2015 of Pandikkad Police Station registered for the offences punishable under Section 377 of the Indian Penal Code and Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012.

3. Prosecution allegation is that between 01.04.2015 to 27.07.2015 the accused enticed the minor son of the *de facto* complainant and took him to various places and he was subjected to unnatural offence. On the basis of the *de facto* complainant's statement the case was registered.

4. Heard the learned counsel for the petitioner and learned Public Prosecutor.

5. Learned counsel for the petitioner submitted that in Chapter VI of Protection of Children from Sexual Offences Act, 2012, the procedure for recording statement

of the child has been clearly mentioned. Section 24 of the Act says that the statement of the child shall be recorded at the residence of the child or at a place where he usually resides or at the place of his choice and as far as practicable by a woman police officer not below the rank of sub inspector. It also says that the police officer while recording the statement of the child shall not be in uniform. According to learned counsel for the petitioner none of this conditions have been satisfied in this case.

6. Learned Public Prosecutor was directed to find out whether the statement of the child was ever recorded as stipulated in the Act. In answer to that query the learned Public Prosecutor produced the case diary showing that statement of the boy was recorded by the investigating officer, a woman sub inspector. Going by the statement, there is no whisper of any sexual assault on the child.

7. Considering the entire facts, I am inclined to grant anticipatory bail to the petitioner with the following conditions:

- (a) Petitioner shall surrender before the Investigating Officer within a period of 'two weeks' from today and submit himself for interrogation. Thereafter, he shall be released on bail on his executing a bond for ₹25,000/- (Rupees Twenty Five Thousand Only) with two solvent sureties for the like sum to the satisfaction of the Investigating Officer.
- (b) The petitioner shall appear before the Investigating Officer as and when required for the purpose of interrogation.
- (c) The petitioner shall co-operate with the investigation of the case.
- (d) The petitioner shall not intimidate or attempt to influence the witnesses.
- (e) The petitioner shall not in any manner interfere or meddle with the investigation.
- (f) Petitioner shall not, during the period of this bail get involved in any offence.

In case any of the above conditions is violated, bail granted hereby is liable to be cancelled for which the investigating officer may move application before the jurisdictional magistrate.

Sd/-
A.HARIPRASAD, JUDGE.

AS

/True Copy/

P.A. to Judge