

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

Bail Appl..No. 5169 of 2015

CRIME NO. 683/2015 OF PAZHAYANGADI POLICE STATION, KANNUR
.....

PETITIONER(S):

**AKHILESH K.V., AGED 37 YEARS,
S/O. K. V. GOPI, R/A KIZHAKKEVALAPPILE KANDI HOUSE,
NEAR RAILWAY CUTTING, POST VALAPATTANAM, KANNUR - 10.**

**BY ADVS.SRI.A.JAYASANKAR
SRI.C.V.MANUVILSAN
SRI.MANU GOVIND
SMT.K.VIDYA
SMT.INDULEKHA JOSEPH**

RESPONDENT(S):

**STATE OF KERALA,
REPRESENTED BY THE SI OF POLICE,
PAZHAYANGADI POLICE STATION KANNUR DISTRICT,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.**

BY PUBLIC PROSECUTOR SMT.S.HYMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
18-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

K.P.JYOTHINDRANATH, J.

B.A.No.5169 OF 2015

Dated this the 18th day of December, 2015

ORDER

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973. The case of the petitioner is that the petitioner apprehends arrest and detention in connection with Crime No.683/2015 of Pazhayangadi police station. When the application came up for hearing, the learned counsel for the petitioner submitted before me that Annexure A2 will show that till 20.06.2015, she was not having any allegation of rape against the petitioner. Annexure A2 is the complaint filed before the Vanitha Cell, Kannur. It is the case that thereafter she made a somersault, as she want to escape from the liability of repayment of the amount as evident from Annexure A4. Annexure A4 is produced to show that there was admission of liability. It is the submission that the complaint is only a pressurising tactics to escape from liability.

2. I heard the learned Public Prosecutor. The learned Public

Prosecutor produced the case diary for perusal. On perusal it is revealed that so far she is not examined by any medical expert. The investigation is moving only at low pace. It is the submission that the victim is not fully co-operating with the investigating officer on the ground that she is laid up.

3. Now, I feel that if the allegation put forward by the victim is not a truthful one, it may cause irreparable injury to the petitioner. But at the very same time if there is truth in the same, granting of anticipatory bail may cause hurdle in the process of investigation. Considering both these aspects and balancing the same, it is ordered that before arresting the petitioner, a notice as contemplated under Section 41 A of the Cr.P.C. shall be issued to the petitioner herein and the petitioner will be at liberty to produce all the documents produced before this Court before the said investigating officer and the investigating officer shall consider the same and if he considers that arrest is necessary, the reason shall be recorded as required under Section 41(3) of Cr.P.C. Even though this is not a matter coming under Section 41 A of Cr.P.C., using inherent power vested on this Court, this

direction is given.

The bail application is accordingly disposed of.

K.P.JYOTHINDRANATH
JUDGE

SV.