

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

Bail Appl..No. 5375 of 2015 ()

CRIME NO. 1328/2015 OF ERAVIPURAM POLICE STATION , KOLLAM DISTRICT

PETITIONER/1ST ACCUSED:

**PUSHPARAJAN,
S/O.LATE SADASIVAN PILLAI,AGED 68 YEARS,
SURABHI NAGAR, THEKKEVILA, KOLLAM.**

**BY SRI.S.SREEKUMAR,SENIOR ADVOCATE
ADVS. SRI.M.A.MOHAMMED SIRAJ
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA
SRI.AJAY BEN JOSE**

RESPONDENT/COMPLAINANT:

**THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. T.Y.LALIZA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 04-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

sts

A.HARIPRASAD, J.

B.A No.5375 of 2015

Dated this the 4th day of September, 2015.

ORDER

Application for bail under Section 439 Cr.P.C.

2. Petitioner is the first accused in Crime NO.1328/2015 of Eravipuram Police Station registered for offences punishable under Sections 7, 8 and 17 of the Protection of Children from Sexual Offences Act, 2012.

3. Prosecution case, in short, is that the petitioner had sexually assaulted his grant daughter aged 11 years and thereby committed the offences alleged against him. The petitioner was arrested on 18-08-2015.

4. Heard Sri.S.Sreekumar, learned Senior Counsel for the petitioner and Smt.T.Y.Laliza, learned Public Prosecutor.

5. Learned Senior Counsel for the petitioner contended that the case is foisted on the petitioner because of the enmity between his daughter-in-law and son. His son had filed two

petitions before the Family Court having jurisdiction for return of money and for divorce. It is alleged that his daughter-in-law (mother of the victim) is leading a promiscuous life and she moves with a gang who used to threaten the petitioner with dare consequences. According to the learned Senior Counsel he was arrested on 03-08-2015. He was threatened over phone by a person called Sijo on 17-07-2015. His son filed the above said applications on 22-07-2015. Later, alleging false incidents, he was arrested on 02-08-2015. This is the case of the petitioner.

6. Learned Public Prosecutor opposed the bail application contending that statement under Section 164 Cr.P.C of the victim (minor) has been recorded by the learned Magistrate showing that her grant father (petitioner) had sexually assaulted her. There is no dispute that the victim and her mother are now residing in a place at Tamil Nadu. The petitioner is hailing from Kollam District. Considering the stage of investigation, I am of the view that bail can be granted to the

petitioner with following strict conditions :

1. Petitioner in the above crime shall be released on bail on executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate having jurisdiction.
2. The sureties shall produce documents to establish their identity and solvency. The learned trial Judge need not insist on solvency certificate, but other documents can also be perused to find out whether the sureties are solvent or not.
3. The petitioner shall not enter the Revenue District of Kollam for a period of three months except for the purpose of appearing before the court/investigating officer.
4. The petitioner shall not indulge in any offence while on bail.
5. The petitioner shall not influence or intimidate the witnesses or meddle with the investigation in any manner.

If any of the above conditions is breached by the petitioner, the learned Magistrate is free to cancel bail without referring the matter to this Court.

**A.HARIPRASAD,
JUDGE.**