

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

Bail Appl..No. 5763 of 2015

CRMP 4690/2015 of J.M.F.C.-I,PATHANAMTHITTA
CRIME NO. 952/2015 OF KODAL POLICE STATION , PATHANAMTITTA

PETITIONER/ACCUSED:

SREEJITH @ KANNAN, AGED 31 YEARS
S/O. SREENIVASAN, THAZHATHIYIL VEEDU, THODUKAPARAMBU
ARAKINAR P.O., BEPOOR VILLAGE, KOZHIKODE DISTRICT.

BY ADV. SRI.K.R.VINOD

RESPONDENT/COMPLAINANT & STATE:

STATE OF KERALA
REP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA - 682 031.

BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 29-09-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Bail Application No.5763 of 2015

Dated this the 29th day of September 2015

O R D E R

The petitioner is the accused in Crime No.952 of 2015 of Koodal Police Station registered under Sections 417, 420 and 376 of the Indian Penal Code (for short 'I.P.C.')

2. The prosecution allegation is that the petitioner committed sexual intercourse with the *defacto complainant* at Vrindavan Lodge in Guruvayoor and thereafter, in a flat at Pooyapally Danya Super Market for two months on the promise that the petitioner would marry her. The petitioner

also managed to obtain an amount of Rs.4,50,000/- and 48 sovereigns of gold ornaments from the mother of the *defacto complainant*. Thereafter, instead of marrying the *defacto complainant*, the petitioner married another girl. The petitioner also did not return the above said gold ornaments and money to the *defacto complainant* or her mother.

3. The petitioner was arrested on 26.8.2015 and ever since he has been in custody.

4. Heard. Perused the Case Diary.

5. The learned Public Prosecutor has opposed the application.

6. It has been submitted by the learned counsel for the petitioner that the petitioner had sexual intercourse with the

defacto complainant with the consent of the *defacto complainant* and hence, the offence under Section 376 I.P.C. will not be attracted. It appears from the Case Diary that the consent of the *defacto complainant* was obtained by the fraudulent representation of the petitioner that the petitioner would marry the *defacto complainant*. Therefore, the consent alleged to have been given by the *defacto complainant* cannot be said to be a consent at all. In the said circumstances, the argument advanced by the learned counsel for the petitioner in this regard, lacks merit. There are materials before the Court to *prima facie* connect the petitioner with the commission of the offence. The investigation is not yet complete. Therefore, if the petitioner is released on bail at this stage, there is

likelihood that the petitioner will intimidate and influence the witnesses and thereby tamper with the investigation. Considering the nature and gravity of the allegations raised against the petitioner, I am not inclined to grant bail to the petitioner at this stage.

In the result, this application stands dismissed.

sd

**B.SUDHEENDRA KUMAR,
JUDGE**

dl

/ True copy /

PA to Judge