

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

Bail Appl..No. 5800 of 2015 ()

**CRIME NO. 3516/2015 OF PERUMBAVOOR POLICE STATION,
ERNAKULAM DISTRICT**

PETITIONER/ACCUSED :

**NOUFAL, AGED 40 YEARS,
S/O. KHADER, KAKKATTIL HOUSE, MARAMBILLY KARA,
MARAMBILLY VILLAGE, PERUMBAVOOR POLICE STATION.**

**BY ADVS.SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM**

RESPONDENTS/STATE & COMPLAINANT :

- 1. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM 682 013.**
- 2. SUB INSPECTOR OF POLICE
PERUMBAVOOR POLICE STATION, PERUMBAVOOR 683 542.**

BY PUBLIC PROSECUTOR SRI.R. REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 18-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

A.HARIPRASAD, J.

B.A. No.5800 of 2015

Dated this the 18th day of November, 2015

ORDER

Application under Section 438 of the Code of Criminal Procedure.

2. Accused in Perumbavoor Police Station Crime No.3516 of 2015 registered alleging offences punishable under Sections 450, 376, 506 (i) and 294(b) and Section 3(1)(iii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Prosecution case is that on 02.09.2015 at about 6.00 p.m. the accused came to the house of the defacto complainant and enquired about her husband. She informed that her husband had gone out. Accused left the place. At about 11.30 p.m. on the same day, the accused knocked on the door of the kitchen and the defacto complainant opened the door thinking that it was her husband. Then the accused entered the room and committed rape on her.

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

5. Learned Prosecutor opposed the bail application contending that custodial interrogation of the accused is highly essential. Further the

defacto complainant is a member of the Scheduled Caste community. Therefore, the offence under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act is also applicable wherein a pre-arrest bail is prohibited by Section 18 of the Act.

6. Learned counsel for the petitioner relying on a decision of the Supreme Court in **Sundeep Kumar Bafna v. State of Maharashtra (2014 (2) KLT 809)** contended that the petitioner may be permitted to surrender before the Court of Sessions where ultimately the trial of this case has to happen.

Considering the nature of allegations, I am not inclined to grant pre-arrest bail to the petitioner. In the event the petitioner surrenders before the Court of Sessions, the learned Sessions Judge shall consider his application for bail on merits and pass appropriate orders as expeditiously as possible in accordance with law.

Application is disposed of.

A. HARIPRASAD, JUDGE.

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