

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

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

Bail Appl..No. 5881 of 2015 ()

**CRIME NO. 234/2015 OF KALAMASSERY POLICE STATION,
ERNAKULAM DISTRICT**

PETITIONER/ACCUSED NO.1 :

**ATHUL DIVAKARAN, AGED 23 YEARS,
S/O. DIVAKARAN, PARAKKATTU HOUSE, THEVACKAL VKC,
THRIKKAKARA NORTH P.O., ERNAKULAM DISTRICT.**

**BY ADVS.SRI.SOORAJ T.ELENJICKAL
SRI.P.A.MOHAMMED SHAH
SRI.K.NANDAKUMAR
SMT.MARY RESHMA GEORGE
SMT.V.A.HARITHA
SMT.P.M.MAZNA MANSOOR**

RESPONDENT/COMPLAINANT :

**STATE OF KERALA
THROUGH THE CIRCLE INSPECTOR OF POLICE,
KALAMASSERY, ERNAKULAM DISTRICT
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. T.Y. LALIZA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 29-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

A.HARIPRASAD, J.

B.A.No.5881 of 2015

Dated this the 29th day of September, 2015

ORDER

Application filed under Section 439 of the Code of Criminal Procedure.

2. Petitioner is the first accused in Crime No.234 of 2015 of Kalamassery Police Station registered for the offences punishable under Sections 120B, 323, 343, 367, 394, 506(ii), 376(D), 212 and 411 r/w Section 34 of the Indian Penal Code.

3. Prosecution case is that on 14.02.2015 at about 08.00 a.m., accused 1 to 4 informed the victim and another lady that they wanted their service for cleaning and they were taken in an Autorickshaw. Thereafter, the Autorickshaw was taken to an unfrequented place and from there accused 1 to 4 committed gang rape on the victim.

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

5. Leaned counsel for the petitioner submitted that

the accused remains in custody from 16.02.2015 onwards. It is also submitted that charge has been filed in this matter and the matter is pending in S.C.No.439 of 2015 before the Special Court for trial of cases relating to Atrocities & Sexual Violence against women and children, Ernakulam.

6. Learned Public Prosecutor strongly opposed the bail application. The report submitted by the investigating officer is produced for perusal.

7. After hearing the learned counsel on both sides and after perusal of the records, I am of the view that the petitioner is not entitled to get bail in this case.

Bail application is dismissed.

Sd/-
A.HARIPRASAD, JUDGE.

AS

/True Copy/

P.A. to Judge