

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

Bail Appl..No. 5908 of 2015

CRIME NO. 1265/2015 OF PERAMANGALAM POLICE STATION, THRISSUR DISTRICT.
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APPLICANT/ACCUSED:

**ROSHAN, AGED 23 YEARS,
S/O.THANKACHAN, KALAPURAYIL HOUSE,
KALLOR, THRISSUR DISTRICT.**

**BYSRI.P.VIJAYA BHANU (SENIOR ADVOCATE)
ADVS. SRI.THOMAS J.ANAKKALLUNKAL
SRI.VIPIN NARAYAN**

RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT.MADHU BEN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 15-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

RAJA VIJAYARAGHAVAN V, J.

B.A.No. 5908 of 2015

Dated this the 15th day of October, 2015

O R D E R

This is an application filed under S.438 of the Code of Criminal Procedure seeking anticipatory bail

2. The petitioner is the sole accused in Crime No.1265/2015 of Peramangalam police station. The allegation is that the first informant, while living separately from her husband, happened to get in touch with the petitioner and on 31.7.2015 she went with the petitioner on a Bike to the forest area at Vadakkancherry. Photographs and videos were taken by the petitioner so as to outrage her modesty and she was further threatened that the photographs would be sent to her husband through the medium of internet if she did not succumb to his carnal interests.

3. I have heard the learned Senior counsel appearing for the petitioner as well as the learned Public Prosecutor.

4. The learned Senior counsel has submitted that the informant was living separately from her husband and she was working as an Executive with the Airtel mobile company. She had become close to the petitioner when he had got in touch with the informant for the purpose of obtaining a telephone connection. She had concealed the fact that she was married. They shared an intimate consensual relationship and traveled to various places. Later, when the petitioner came to know about her marital status, he withdrew from the relationship which irked the defacto complainant resulting in the registration of the complaint. According to the learned Senior counsel, the offense under S.354 will not be attracted in the peculiar facts of the instant case as the relationship and the acts all through were consensual and as far as S.506(1) is

concerned the same is bailable.

5. The learned Public Prosecutor, on the other hand, submitted that the petitioner had taken advantage of the close relationship between the petitioner as well as the de facto complainant and the act of taking photos and videos and the threat of circulating the same to her husband is sufficient enough ground to reject the instant application.

6. I have gone through the case diary as well. The materials in the case diary reveals that the informant as well as the petitioner were maintaining a close relationship which later fell apart. Though I am not very much impressed by the contentions raised by the learned Senior counsel, the fact that the informant was a consenting party all through cannot be ignored. I do not think that custodial interrogation is warranted in the facts and circumstances.

7. Having regard to the nature of allegations levelled

against the petitioner, the relative conduct of the parties and the other circumstances of the case, I am inclined to grant anticipatory bail to the petitioner safeguarding the interest of the prosecution as well, subject to stringent conditions:

i.The petitioner shall, within a period of one week, surrender before the investigating officer and submit himself for interrogation. Thereafter, he shall execute a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties for the like sum to the satisfaction of the investigating officer. In that event, he shall be released on bail.

ii.The petitioner shall appear before the investigating officer at 10.00 a.m. on the next two consecutive days and submit himself for interrogation.

iii. If the investigating officer requires the attendance of the accused on any further occasion than the days mentioned above, he can direct the accused in writing to appear and co-operate with the investigation.

iv. The petitioner shall surrender his passport before the Magistrate concerned

in one week from the date of appearance before the investigating officer. If he does not have a passport, he shall swear to an affidavit showing that fact before the learned Magistrate having jurisdiction.

v. The petitioner shall not influence or intimidate the witnesses. He shall not meddle in any manner with the investigation.

vi. The petitioner shall not leave the limits of State of Kerala without the permission of the Magistrate concerned.

vii. If any of the conditions above is violated, the Magistrate having jurisdiction is empowered to cancel the bail in accordance with law without referring the matter to this Court.

This application is allowed as above.

Sd/-
**RAJA VIJAYARAGHAVAN V,
JUDGE.**

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[True copy]

P.A to Judge