

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

Bail Appl..No. 6001 of 2015 ()

CRIME NO. 691/2011 OF MEDICAL COLLEGE POLICE STATION,KOZHIKODE DISTRICT

PETITIONER :

**MANAF @ ABDU MANAF, AGED 26 YEARS,
S/O. MUHAMMED A.K, ANIKOTH HOUSE, PERUVALL,
OMASSERY, VENNAPPARA P.O.,
CALICUT DISTRICT- 673 582 (NOW RESIDING AT UMM-AL,
QUWIN, POST BOX NO.4232)**

**BY ADVS.SRI.JOHNSON MANAYANI
SRI.JEEVAN MATHEW MANAYANI**

RESPONDENT(S):

- 1. THE SUB INSPECTOR OF POLICE,
MEDICAL COLLEGE POLICE STATION,
KOZHIKODE -673 001**
- 2. STATE O KERALA,
REPRESENTED BY ITS STATE PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM -682 031**

BY PUBLIC PROSECUTOR SMT. T.Y.LALIZA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 08-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

sts

A.HARIPRASAD, J.

B.A No.6001 of 2015

Dated this the 8th day of October, 2015.

ORDER

Application for pre-arrest bail under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.691/2011 of Kozhikode Medical College Police Station registered for offences punishable under Sections 376 and 377 I.P.C and Section 66(E) of the Information Technology Act, 2000.

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

4. Prosecution case, in short, is that on 08-05-2011 between 9.00 a.m to 10.00 a.m, the petitioner forcefully took her in his car and from a deserted place he compelled her to have sex and the scenes were recorded in a mobile phone. Thereafter, it was send to the mobile phone of the defacto complainant.

5. Learned counsel for the petitioner submitted that the mobile phone said to be used did not belong to him. Further, the

offence defined under Section 375 I.P.C is not attracted even by the showing of the prosecution. Leaned Public Prosecutor opposed the bail application contending that the accused remained absent from the court for a long time and steps under Sections 82 and 83 Cr.P.C have been taken against the petitioner. The matter is now pending in committal proceedings. It is also submitted that a lookout notice has been issued in this case. Annexure A4 is the order passed by this court in a proceedings under Section 482 Cr.P.C wherein the petitioner sought to quash the case. This court dismissed the application. Considering the entire facts, the extra ordinary jurisdiction of this Court under Section 438 Cr.P.C cannot be exercised in favour of a person, who unjustifiably abstained from court. Therefore, I am of the view that the petition is liable to be dismissed. Hence, I do so. Bail application is dismissed.

Sd/-
A.HARIPRASAD,
JUDGE.