

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. 6057 of 2015 ()

(CRIME NO.209/2015 OF RAILWAY POLICE STATION, PALAKKAD DISTRICT)

PETITIONER/ACCUSED:

**ABU HASHMI, AGED 24 YEARS,
S/O. NAWAS, ABOOS, MAYYANDU VILLAGE,
KOTTIKKADA P.O., AYIRAMTHEENGUCHERRY,
KOLLAM.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY**

RESPONDENT(S)/STATE:

- 1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031,
(CRIME NO. 209/2015 OF RAILWAY POLICE STATION,
PALAKKAD DISTRICT).**
- 2. STATION HOUSE OFFICER,
RAILWAY POLICE STATION,
PALAKKAD DISTRICT - 678 001.**

BY PUBLIC PROSECUTOR SMT. LALIZA.T.Y.

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

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A.HARIPRASAD, J.

B.A. No.6057 of 2015

Dated this the 18th day of November, 2015

ORDER

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

2. Petitioner apprehends arrest in Crime No.209 of 2015 of Palakkad Railway Police Station registered for offences punishable under Sections 377 and 342 I.P.C and Sections 3(d) and 4 of Protection of Children from Sexual Offence Act.

3. Prosecution case, in short, is that a boy aged 16 years was sexually harassed by a Train Ticket Examiner from a train on 17-09-2015. The boy was travelling in the train and the TTE called him to the washroom of the compartment and committed the offence. The boy aged 16 was not having any previous acquaintance with the accused.

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

5. Learned counsel for the petitioner submitted that the petitioner is innocent and if he is arrested without any legal

justification, he may lose his job. Learned Public Prosecutor opposed the bail application by contending that the petitioner is not an accused for the time being and he is the prime suspect. Therefore, without identifying the real accused, it may not be possible to proceed with the investigation. These submissions are recorded. The petitioner is not entitled to get relief under Section 438 Cr.P.C as he is not an accused in a non-bailable offence. The investigating officer shall take steps to procure the presence of the petitioner as provided in Section 160 Cr.P.C and after identifying the accused involved in the case, further investigation has to be proceeded with.

With this observation, the bail application is disposed of.

Sd/-
A.HARIPRASAD,
JUDGE.

amk

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P.A to Judge