

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

Bail Appl..No. 6555 of 2015 ()

CRIME NO. 1253/2015 OF EZHUKONE POLICE STATION , KOLLAM DISTRICT

PETITIONER:

**PRADEEP,
S/O.GOPALAKRISHNAN, AGED 44 YEARS,
NIRMALYAM, CHOORAPOYKA,
KAREEPRA VILLAGE, KOTTARAKKARA TALUK.**

BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY THE S I OF POLICE, EZHUKONE,
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM-31**
- 2. THE S.I. OF POLICE,
EZHUKONE POLICE STATION. PIN-689 007**

BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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RAJA VIJAYARAGHAVAN.V. J

B.A.6555 of 2015

Dated 30th October, 2015

ORDER

- 1.This is an application for pre-arrest bail, filed u/s 438 of the Code of Criminal Procedure.
- 2.The petitioner herein is the accused in crime No.1253 of 2015 of Ezhukone police station, Kollam. The said crime has been registered u/s 294(b), 324, 506(2), 354 of the IPC and S.3(1)(x) of the Scheduled caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short "the Act").
- 3.The crux of the allegation is that on 23.8.2015 at 5.00 pm, the petitioner had called the caste name of the informant and assaulted her with weapons causing injuries. Though the incident is alleged to have occurred on 23.8.2015, crime was registered only on

27.8.2015.

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

5.The learned counsel appearing for the petitioner has submitted that the allegations levelled against the petitioner are false and the ingredients of the offence are not attracted. Inviting the attention of this Court to Annexure-A1, which is the complaint filed by the informant before the Circle Inspector of police, Ezhukone, it was submitted by the learned counsel that the informant has neither mentioned her caste name nor has she stated the offensive words . On the basis of the aforesaid uncontroverted facts, it was contented by the learned counsel that there was no embargo in considering the application for bail. The learned Public Prosecutor, on the other hand, submitted that S.18 of the Act, will act as a bar in granting anticipatory bail to

the petitioner.

6. In (**Shannu vs. State of Kerala (2000 (3) KLT 452)**, **Krishnakumar v. State of Kerala (2005 (1) KLD (CrI) 42)** and **Ali v. State of Kerala (2000(2) KLT 280)**), and in a catena of decisions, this Court has held that the learned Magistrate is not powerless in granting bail in appropriate cases relating to offences punishable under the Act. It has also been held by this Court in **Jamsheer A.V. And Another v. State of Kerala and Others (2013(3) K.H.C 456)**, that a duty is cast on the Court to verify the averments in the complaint to find out whether an offence under Section 3(1)(x) of the Act has been prima facie made out or not. However in view of S.18 of the Act, I am not inclined to grant anticipatory bail to the petitioner.

7. The petitioner, in the aforesaid circumstances, is directed to surrender before the jurisdictional

Magistrate and move appropriate application for bail within "10 days" from the date of this order. On such application being filed, the learned Magistrate shall consider the application, expeditiously and on the same day itself, keeping in view the above settled legal precedents and taking specific note of the lack of specific averments in the complaint.

The application is disposed of as above.

Sd/-

RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

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P.S. To Judge