

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

Bail Appl..No. 6594 of 2015 ()

CRIME NO. 1323/2015 OF SOORANADU POLICE STATION , KOLLAM DISTRICT

PETITIONER/ACCUSED:

**SHIHABUDHEEN,
S/O.SHAMSUDHEEN RAWTER, AGED 27 YEARS,
CHIRAYUDETTEKKETHU HOUSE,
THEKKEMURI, SOORANADU NORTH P.O,
KOLLAM DISTRICT -690 522**

**BY ADVS.SRI.V.K.BEERAN
SRI.V.P.REGHURAJ
SRI.SHYAM V.**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
(REP BY S.I. OF POLICE,
SOORANADU POLICE STATION
CRIME NO.1323/2015) REP. BY PUBLIC PROSECUTOR ,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 02-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

sts

A. HARIPRASAD, J.

Bail Appl. No.6594 of 2015

Dated this the 2nd day of November 2015

ORDER

Bail application filed under Sec.438 Cr.P.C.

2. Petitioner is the accused in Crime No.1323 of 2015 of Sooranadu Police station registered for the offences punishable under Secs.366, 376 and 506(i) of the Indian Penal Code. The case arose out of a private complaint (Annexure A1). Prosecution case is that on 11.05.2015, the accused/petitioner called the defacto complainant over mobile phone and forcefully took her to his house and committed rape on her. It is also contended that they were engaged for marriage prior to the physical relationship. Later, he wriggled out of marriage. It is the allegation that on the promise to marry, he committed rape on her.

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

4. Learned Senior counsel for the petitioner submitted that the entire allegations in the complaint are

false. It is true that the accused had agreed to marry the defacto complainant and their engagement was over. Later, it was revealed that her father was a convicted person under NDPS Act. Considering the cultural disparity, the petitioner withdrew from the marriage proposal. To wreak vengeance, a false complaint has been filed.

5. Learned Public Prosecutor submitted that the statement recorded under Sec.164 Cr.P.C. of the defacto complainant do not reveal a case of rape under duress.

Considering the nature of allegations and the fact that a complaint was filed only on 19.09.2015, although the incident alleged to have happened on 11.05.2015, I am inclined to grant pre arrest bail to the petitioner with the following conditions.

1. The petitioner shall surrender before the investigating officer within a period of two weeks and submit himself for interrogation.

2. After questioning the petitioner and conducting the required tests, the petitioner

shall be released on his executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the investigating officer.

3. The petitioner shall appear before the Investigating Officer for interrogation as and when directed by him in writing.

4. The petitioner shall not intimidate or attempt to influence the witnesses, nor shall he tamper with the evidence.

5. The petitioner shall co-operate with investigation of the case.

In case of violation of any of the above conditions, the learned Magistrate is empowered to cancel the bail in accordance with law without referring the matter to this Court.

Sd/-
A. HARIPRASAD
JUDGE

/ True Copy /

NS/02/11/2015

P.A. To Judge