

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

Bail Appl..No. 6604 of 2015

CRIME NO. 913/2015 OF KODAKARA POLICE STATION, THRISSUR

PETITIONER(S)/ACCUSED:

**SHANMUGHAN, AGED 46 YEARS,
S/O KUTTAPPAN, KANNEMPARMBIL HOUSE,
KALLETINKARA DESOM, MURIYAD PO,
THRISSUR DISTRICT.**

BY ADV. SRI.RAJESH CHAKYAT

RESPONDENT(S)/COMPLAINANT:

**THE SUB INSPECTOR OF POLICE,
KODAKARA, THRISSUR DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**

BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02-12-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

K.P. JYOTHINDRANATH, J.

B.A. No.6604 of 2015

Dated this the 2nd day of December, 2015

O R D E R

This is an application filed under Section 438 of the Code of Criminal Procedure.

2. Petitioner is the accused in crime No.913/2015 of Kodakara Police Station, which is registered for the offences under Sections 3, 5 (1) r/w 6 of the Protection Of Children from Sexual Offences Act, 2012 r/w. Section 34 of IPC.

3. When the application came up for hearing, learned counsel for the petitioner submitted before me that here is a case where false implication is apparent. It is also submitted before me that even though there are assertions of commission of offence under Sections 3 and 5 of the Protection Of Children from Sexual Offences Act, it is learned that, in a statement given to the learned Magistrate under Section 164 of Cr.P.C. she has not alleged or stated any penetration. It is the submission that, it is learned that

there is only an allegation of attempt. It is the submission that if there is an attempt alone, then naturally, Sections 3 & 5 of the Protection Of Children from Sexual Offences Act will not come into operation. It is also the submission that nowadays the provisions are misused by persons to extract money.

4. I heard the learned Public Prosecutor, who submitted before me that here is a case where a minor is raped by the petitioner herein. It is also the submission that it is to be remembered that the defacto complainant is none other than the mother of the victim.

5. I have heard the learned Public Prosecutor and the learned counsel for the petitioner.

After perusing the case diary made available in the open court and after going through the wound certificate and also considering the fact the original complaint is a statement recorded from the school, I feel that this is not a fit case where extra ordinary power vested upon this court under Section 438 can be invoked. Thus, this anticipatory

bail application is dismissed.

Sd/-

**K.P. JYOTHINDRANATH
JUDGE**

//True copy//

P.A. TO JUDGE

shg/