

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

Bail Appl..No. 6775 of 2015

CRIME NO. 1715/2015 OF KOTHAMANGALAM POLICE STATION, ERNAKULAM

PETITIONER(S)/ACCUSED:

**RAHIM, AGED 35 YEARS,
S/O.SYED, KUTTICHARA HOUSE, KOTTAPADY VILLAGE,
KOTHAMANGALAM TALUK, ERNAKULAM - 686 692.**

**BY ADVS.SRI.P.B.AJOY
SRI.TA.KADER KUNJU**

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY SHO OF
KOTHAMANGALAM POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, PIN - 682031.**

BY PUBLIC PROSECUTOR SRI.ABDUL KAREEM

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19-11-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

A.HARIPRASAD, J.

B.A. No.6775 of 2015

Dated this the 19th day of November, 2015

ORDER

Application for bail under Section 439 of the Code of Criminal Procedure.

2. Petitioner is the accused in Kothamangalam Police Station Crime No.1715 of 2015 registered for offences punishable under Section 376 of the Indian Penal Code and Section 3(b) read with Section 4 of the Protection of Children from Sexual Offences Act, 2012.

3. Prosecution case is that during the period from 01.08.2015 to 29.09.2015 the accused, who is a madrassa teacher, sexually assaulted a girl aged 8 years from the madrassa class room.

4. Heard both sides.

5. Learned counsel submitted that the petitioner is in custody from 30.09.2015 onwards.

6. Learned Prosecutor opposed the bail application.

7. Case diary is placed for perusal. Prima facie there are materials indicating the commission of offence by the petitioner. The statement of victim under Section 164 of the Code of Criminal Procedure as mandated by the statute has not been recorded. Therefore, a report

was called from the Chief Judicial Magistrate Court, Ernakulam. It is submitted that the matter had been referred to the Judicial First Class Magistrate Court, Piravom and in spite of issuing notice to the victim to be present on 16.11.2015, she was absent. Now the matter is adjourned to 03.12.2015. Considering the matter that the petitioner is in custody for a long time, bail is granted to him with following strict conditions:

i. Petitioner shall be released on bail on executing a bond for ₹1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like sum to the satisfaction of the learned Special Judge having jurisdiction.

ii. The sureties shall produce documents to establish their identity and solvency. The lower court need not insist on the solvency certificate, but other documents can also be perused to find out whether the sureties are solvent or not.

iii. Petitioner shall appear before the Investigating Officer on all Mondays and Thursdays between 9.00 and 10.00 a.m until final report is filed.

iv. He shall not indulge in any offence while on bail.

v. He shall not influence or intimidate the witnesses or meddle with the investigation in any manner.

vi. He shall not enter the limits of Kothamangalam Police

Station for a period of three months except for the purpose of complying with the bail conditions.

If any of the above conditions is breached by the petitioner, the lower court concerned is free to cancel bail without referring the matter to this Court.

A. HARIPRASAD, JUDGE.

cks