

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

Bail Appl..No. 7303 of 2015 ()

CRIME NO. 1297/2015 OF PONKUNNAM POLICE STATION, KOTTAYAM DISTRICT

PETITIONER/2ND ACCUSED :

**BABY THOMAS, AGED 45 YEARS
S/O.THOMAS, KALAPPURAKKAL HOUSE, NARIYANANI P.O.
PONKUNNAM, KOTTAYAM.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.NANDAGOPAL S. KURUP**

RESPONDENTS/DEFACTO – COMPLAINANT :

**STATE OF KERALA
THROUGH THE SUB INSPECTOR OF POLICE
PONKUNNAM POLICE STATION, KOTTAYAM
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

BY PUBLIC PROSECUTOR SMT. LALIZA T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25-11-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

A.HARIPRASAD, J.

B.A. No.7303 of 2015

Dated this the 25th day of November, 2015

ORDER

Application for bail under Section 438 Cr.P.C.

2. Petitioner is the second accused in Crime No.1297 of 2015 of Ponkunnam Police Station registered for offences punishable under Section 354 r/w Section 34 I.P.C and Section 23 of the Juvenile Justice (Care and Protection of Children) Act, 2000 and Section 8 of the Protection of Children from Sexual Offence Act.

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

4. Prosecution case, in short, is that the second accused is working as conductor in a bus and the first accused is the cleaner in the same bus. Defacto complainant is a girl, aged 15 years studying for plus one course in a school. She along with other students raises complaint that the petitioner and the first accused used to misbehave towards the girl children while travelling in the bus and they sexually assaulted them.

5. Learned counsel for the petitioner contended that there is no material to attract Section 354 I.P.C as there is no mention of using any criminal force. It is also submitted that Section 23 of the Juvenile Justice Act also will not come into play because there is no allegation that the accused knowing that the victim is a juvenile attempted to commit any offence. I have gone through the case diary and the statements of the girl children. Prima facie they show the complicity of the petitioner in the crime. Considering the nature of the allegations and the societal impact on such offences, I am not inclined to grant pre-arrest bail to the petitioner. Hence the following order :

The petitioner shall surrender before the Investigating Officer within a period of one week from today and submit himself for interrogation. Thereafter, he shall be produced before the learned Magistrate having jurisdiction on the same day. The petitioner is free to move for regular bail before the court below. In that event, the application shall be

considered on merits as expeditiously as possible on the date of surrender itself. If petitioner does not surrender in the stipulated time, the Investigating Officer is free to arrest him as if no order is passed in this matter.

**Sd/-
A.HARIPRASAD,
JUDGE.**

//True copy//

P A to Judge

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