

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

Bail Appl..No. 7422 of 2015 ()

CRIME NO. 2248/2015 OF THRISSUR EAST POLICE STATION,THRISSUR DISTRICT

PETITIONER/ACCUSED:

**MUSTHAF A, AGED 28 YEARS,
S/O.MOHAMMEDALI, KERANDAKATH HOUSE,
PUTHUMANASSERI DESOM, PAVARATTY VILLAGE,
CHAVAKKAD TALUK, THRISSUR DISTRICT.**

**BY ADVS.SRI.S.RENJITH
SRI.S.UNNIKRISHNAN (NELLAD)**

RESPONDENT/STATE:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT. R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 01-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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A.HARIPRASAD, J.

B.A. No.7422 of 2015

Dated this the 1st day of December, 2015

ORDER

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

2. Crime No.2248 of 2015 of Thrissur East Police Station registered for offences punishable under Sections 366A and 376(2) of the Indian Penal Code and Section 3(b) read with Section 4 of the Protection of Children from Sexual Offences Act, 2012 is now pending in S.C.No.795 of 2015 on the file of the Special Court (Additional Sessions Court, Thrissur). Petitioner is the accused in the case.

3. Prosecution case, in short, is that on 23.08.2015 at 16.30 hours, he forcefully took away the victim aged 15 years and committed sexual intercourse by applying force. The accused is in custody from 26.08.2015 onwards.

4. Heard both sides.

5. Learned Prosecutor submitted that after closure of the investigation, charge has been filed on 21.10.2015.

6. Learned counsel for the petitioner relying on the order passed by the lower court submitted that there is an observation by the learned

Special Judge in the bail order dated 11.11.2015 that the investigation has not been completed. It is, therefore, contended that there is incongruity between the observations in the bail order and the report submitted by the investigating officer showing that final report had been filed on 21.10.2015.

7. In the report it is explained that the first information report could not be transmitted from the Magistrate's court to the trial court and that is why the observation by the learned Special Judge. It is borne out from the records that the final report has already been filed within the statutory period. Hence I am of the view that the petitioner shall approach the appropriate court with an application for regular bail. The Special Court (Additional Sessions Court, Thrissur) shall consider the matter on merit as expeditiously as possible.

A. HARIPRASAD, JUDGE.

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