

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

Bail Appl..No. 7769 of 2015 ()

CRIME NO. 627/2015 OF PAYYAVOOR POLICE STATION, KANNUR DISTRICT

PETITIONER(S)/ACCUSED NO.1 TO 3:

1. VIJIL KUMAR V., S/O.VIJAYAN,AGED 26 YEARS,
VADAKKE MATTATHIL HOUSE,
CHANDANAKKAMPARA P.O., PAYYAVOOR AMSOM,
TALIPARAMBA TALUK, KANNUR DISTRICT.
2. SARATH SIVADAS, S/O.SIVADASAN,AGED 23 YEARS,
PLAKKATTU HOUSE, CHANDANAKKAMPARA.P.O.,
PAYYAVOOR AMSOM, TALIPARAMBA TALUK,
KANNUR DISTRICT.
3. RAJEEV ABRAHAM @ UNNI, S/O.ABRAHAM,AGED 27 YEARS,
CHERUVALLATH HOUSE, ADAMPARA,
PAYYAVOOR P.O., PAYYAVOOR AMSOM, TALIPARAMBA TALUK,
KANNUR DISTRICT.

**BY ADVS.SRI.V.A.SATHEESH
SRI.V.T.MADHAVANUNNI**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA THROUGH S.H.O.
PAYYAVOOR POLICE STATION, KANNUR DT.**

BY PUBLIC PROSECUTOR SMT. LALIZA.T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 16-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

A.HARIPRASAD, J.

B.A No.7769 of 2015

Dated this the 16th day of December, 2015.

ORDER

Application for bail under Section 439 Cr.P.C.

2. Petitioners are the accused Nos.1 to 3 in Crime No.627/2015 of Payyavoor Police Station registered for offences punishable under Sections 450, 376 and 506(i) r/w Section 34 I.P.C and Section 66E of the Information Technology Act.

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

4. Prosecution case, in short, is that the defacto complainant sent her private photo to her husband through Whats App. By mistake, the photo was sent to the first accused in the month of June, 2015. During one night, at about 10.30 p.m, the first accused trespassed into the bed room of the defacto complainant and committed rape on her. Second accused also threatened her that the photo will be publicized

and committed rape on her. Same was repeated by the third petitioner as well.

5. Learned counsel for the petitioner submitted that the petitioners are in custody from 24-10-2015 onwards. Learned Public Prosecutor strongly opposed the bail application. Investigation in this case has not been completed. Further, the first accused is involved in three other crimes of which, two are registered under Section 308 I.P.C and other offences. Second accused although involved in an offence, the nature of offence is not very serious. Similarly, the third accused is also involved in two other crimes of a grave nature. Considering the stage of investigation and the antecedents of the petitioners, I am not inclined to grant bail to the 1st and 3rd petitioners. Hence, their bail application will stand dismissed. Bail is granted to the second petitioner with following strict conditions :

1. The second petitioner shall be released on bail on 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 learned Magistrate having jurisdiction.

2. 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.
3. The second petitioner shall appear before the Investigating Officer on all Mondays and Thursdays between 09.00 and 10.00 a.m until final report is filed.
4. The petitioner shall not indulge in any offence while on bail.
6. The petitioner shall not influence or intimidate the witnesses or meddle with the investigation in any manner.

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

Sd/-
A.HARIPRASAD,
JUDGE.

//True copy//

P.A to Judge

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