

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

Bail Appl..No. 7964 of 2015

CRIME NO. 2019/2015 OF MUVATTUPUZHA POLICE STATION , ERNAKULAM

PETITIONER(S)/ACCUSED :

**SHAJI K.J., AGED 53 YEARS,
S/O.LATE K.J.JOHN, KALARIKKAL HOUSE, MEKKADAMBU.P.O,
VALAKOM VILLAGE, MUVATTUPUZHA, ERNAKULAM.**

BY ADV. SRI.PAUL K.VARGHESE

RESPONDENT(S)/COMPLAINANT :

**STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
MUVATTUPUZHA POLICE STATION,
REPRESENTED THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.MADHUBEN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 18-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

K.P. JYOTHINDRANATH, J.

B.A. No. 7964 of 2015

Dated this the 18th day of December, 2015

O R D E R

This is an application filed under Section 438 of the Code of Criminal Procedure. The case of the petitioner is that the petitioner is a Government Official and now facing arrest and detention in connection with crime No.2019/2015 of Muvattupuzha Police Station. The offences alleged are under Section 451 of Indian Penal Code and under Sections 7 and 8 of Protection of Children from Sexual Offence Act, 2012.

2. When the petition came up for hearing, the counsel for the petitioner submitted before me that now the petitioner is facing arrest in the above crime. A false complaint has been filed before the police by the de facto complainant on the instigation and support of her parents.

3. It is the submission that the petitioner has produced documents to show that there was strained relationship in between the petitioner herein and the parents of the de facto complainant. The alleged victim is aged only 10 or 12 years. It is the submission that she is tutored to make a false complaint to take vengeance against the petitioner. It is also the submission that the aim of the parents of the victim is to lose the Government job of the petitioner. It is further submission that the petitioner is a Junior Superintendent in a Judicial First Class Magistrate Court. He will not commit such an offence especially when he is fully aware of the consequences. It is also submitted that the antecedents of the petitioner will reveal that he will not do such an offence. It is the further submission that the arrest will cause irreparable injury. It is also brought to my notice, the decisions reported in *Shobhan Singh Khanka v. State of Jharkhand* [2012(2) *KLT Suppl.* 68(SC)] and also *Baby v. State of Kerala* [2013(4) *KLT* 15].

4. I heard the learned Public Prosecutor.

5. The prosecutor submitted before me that the offence alleged is a heinous crime where moral aptitude is there. It is also the submission that when the petitioner is an officer attached to the Judicial First Class Magistrate Court, the chance of implicating him in a false case can be ruled out. The police will be careful.

6. The prosecutor made available the case diary, I had gone through the same. After going through the statement given to the police, I feel that this is not a fit case where the anticipatory bail can be granted. Surely, after considering the documents produced, I feel that the Investigating Officer also should be very careful before arresting the petitioner.

7. I hereby direct that a notice as contemplated under Section 41A of the Code of Criminal Procedure should be issued to the petitioner and only if necessary, he shall be arrested and if arrested, the reasons should be recorded as required under Section 41A(3) of the Code of Criminal

Procedure.

With the above observation and direction, this anticipatory bail application is dismissed. The documents produced herein can be produced before the police officer, if a notice as stated above, received by the petitioner.

Sd/-
K.P. JYOTHINDRANATH
JUDGE

bpr

//TRUE COPY//

P.A. TO JUDGE