

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

Bail Appl..No. 7992 of 2015

CRIME NO. 627/2015 OF VYTHIRI POLICE STATION, WAYANAD

PETITIONER/ACCUSED:

NOUFAL P. AGED 18 YEARS
S/O.FAROOQUE, PALATHULLY HOUSE, VYTHIRI TALUK
WAYANAD DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS/COMPLAINANTS:

1. SUB INSPECTOR OF POLICE
VYTHIRI POLICE STATION, WAYANAD DISTRICT.
2. THE DEPUTY SUPERINTENDENT OF POLICE
MANANTHAVADI, WAYANAD DISTRICT.
3. STATE OF KERALA
(RESPONDENTS 2 & 3 REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, COCHIN-682031).

R BY PUBLIC PROSECUTOR SMT. LALIZA T.Y.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

BABU MATHEW P. JOSEPH, J.

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B.A. No. 7992 of 2015

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Dated this the 22nd day of December, 2015

ORDER

This petition is filed under Section 438 of Cr.P.C. for anticipatory bail.

2. Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor appearing for the respondents. C.D. Produced.

3. The petitioner is the accused in Crime No. 627 of 2015 of Vythiri Police Station. The offences alleged are under Sections 363, 354 and 376(2)(i) of the Indian Penal Code, under Sections 3(1)(xi) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Sections 4 and 5(I) read with Sections 6, 7 and 8 of the Protection of Children from Sexual Offences Act, 2012. Learned counsel for the petitioner submits that the petitioner is aged only 18. He is totally innocent of the allegations raised against him. He has no criminal antecedents. The investigation of the case has

progressed much. The petitioner is ready and willing to undergo the required potency test at any time as directed by the Investigating Agency. The custodial interrogation of the petitioner is not required in this case. He further submits that the petitioner apprehends arrest by the police at any time.

4. Learned Public Prosecutor has opposed this petition. She, on instructions, submits that the investigation of the case has progressed much. She further submits that no criminal antecedents have been reported against the petitioner. On considering the facts and circumstances, stage of the investigation, age of the petitioner and the fact that no criminal antecedents have been reported against the petitioner, this Court is of the view that the petitioner can be given an opportunity to surrender before the Investigating Officer with certain directions to the Investigating Officer. The Investigating Officer shall, after questioning the accused and, if necessary, after sending him for the potency test, produce him before the jurisdictional Special Court on the same day itself. The petitioner is free to seek regular bail from the Special Court as held by this Court in **Shanu v. State of Kerala [2000(3)KLT 452]** and subsequent

decisions.

Therefore, this bail application is disposed of as under:

The petitioner shall surrender before the Investigating Officer on or before 31.12.2015. The Investigating Officer, after questioning the petitioner and, if necessary, after sending him for the potency test, produce him before the jurisdictional Special Court on the same day itself ie, on 31.12.2015. The petitioner is free to move the Special Court seeking regular bail with intimation to the Public Prosecutor concerned. In case such an application is preferred by the petitioner, the learned Special Court shall pass appropriate orders on the application in the light of the decision in **Shanu v. State of Kerala (*supra*)** and subsequent decisions of this Court preferably on that day itself.

Sd/-

BABU MATHEW P. JOSEPH
JUDGE

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