

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

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

Bail Appl..No. 8162 of 2015

CRIME NO. 684/2015 OF POTHANIKADU POLICE STATION, ERNAKULAM

PETITIONER(S)/ACCUSED:

**ARUN, AGED 36 YEARS,
S/O.APPUKUTTAN NAIR, SANTHAVILASAM HOUSE,
MARANGOLIL KARA, NJEZHOOR VILLAGE, VAIKKOM TALUK.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY**

RESPONDENT(S)/STATE:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM 682 031. CRIME NO. 684/2015
OF POTHANIKKADU POLICE STATION,
ERNAKULAM DISTRICT.**

BY PUBLIC PROSECUTOR SMT.R.REMA

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

PJ

K.RAMAKRISHNAN, J.

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B.A No. 8162 OF 2015

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Dated this the 22nd day of December, 2015

ORDER

The sole accused in Crime No.684/2015 of Pothanikkadavu Police Station has filed this application for regular bail under Section 439 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that on account of the abetment made by the accused, the deceased attempted to commit suicide on 5.10.2015 and died on 11.10.2015 and thereby the accused had committed the offence punishable under Section 306 of Indian Penal Code.

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

4. The counsel for the petitioner submitted that the case was originally registered under Section 174 of the Code of Criminal Procedure for unnatural death and thereafter it was converted into one under Section 306 of the Indian

Penal Code and he was arrested on 3.12.2015 and he is in jail from on that day onwards. In the dying declaration given by the deceased, no incriminating circumstances were brought against the petitioner. His custody is not required any more. So he prayed for allowing the application.

5. The application was opposed by the Public Prosecutor on the ground that the investigation was not over. Perused the report of the investigating officer and case diary.

6. It is seen from the case diary that the petitioner is a teacher in N.S.S Higher Secondary School, Varappetty and the deceased was a student in that school. There was some intimacy between them and when that intimacy failed on account of some act on the part of the accused, that prompted the deceased to commit suicide on 5.10.2015 and subsequently she died on 11.10.2015 from Medical College Hospital, Kottayam, while she was undergoing treatment due to burn injuries.

7. On the basis of intimation regarding the death of the deceased, crime was registered originally under the

caption unnatural death under Section 174 of the Code of Criminal Procedure. During investigation, it was revealed that accused had some role in the act of committing suicide by the deceased. So it was converted into one under Section 306 of Indian Penal Code and the petitioner was implicated as accused in the case and he was arrested on 3.12.2015. The investigation is almost over. The main witnesses were questioned and statements were recorded. The custody of the accused is not required any more in connection with the investigation.

8. I am not going into the evidentiary value of the dying declaration said to have been given by the deceased which the learned counsel for the petitioner wants to rely on. Considering the circumstances, this court feels that bail can be granted to petitioner with some stringent conditions as the custody of the petitioner is not required any more in connection with the investigation. So the petition is allowed with the following conditions:

(i). The petitioner shall be released on bail on executing a bond for Rs.50,000/- with two solvent sureties

for the like sum each to the satisfaction of the Judicial First Class Magistrate Court-II, Kothamangalam.

(ii). The petitioner shall appear before the investigating officer on last Saturday of every month between 9 am to 10 am to till the final report is filed.

(iii) The petitioner shall not intimidate or influence the witnesses .

(iv) The petitioner shall not leave the State of Kerala without getting prior permission from the Judicial First Class Magistrate's Court-II, Kothamangalam till the disposal of the case.

With the above observations the application is allowed.

K.RAMAKRISHNAN, JUDGE

SKV