

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

Bail Appl..No. 8852 of 2014 ()

CRIME NO. 2087/2014 OF PALA POLICE STATION , KOTTAYAM DISTRICT

PETITIONER/1ST ACCUSED:

**JOSEKUTTY P. SEBASTIAN,
S/O. SEBASTIAN, PAZHUKKUNNEL HOUSE,
PALA, KOTTAYAM DIST.**

**BY ADVS.SRI.BECHU KURIAN THOMAS
SRI.S.SREEDEV**

RESPONDENT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 08-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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B.KEMAL PASHA, J.

.....
B.A. No.8852 OF 2014
.....

Dated this the 8th day of January, 2015

ORDER

Petition filed under Section 439 Cr.P.C.

2. Petitioner is the first accused in Crime No.2087/2014 of the Pala Police Station, Kottayam registered for the offences punishable under Sections 323, 328, 376 and 506(i) read with Section 34 of the Indian Penal Code and Section 119(b) of the Kerala Police Act.

3. The allegation against the petitioner is that he had repeatedly committed rape on the defacto complainant woman for the period from 05.07.2013 onwards on different times and at different places. It is alleged that on 05.07.2013 at 11 am, he had administered some sedative

medicine along with the other medicines which were being taken by the defacto complainant, thereby making her unconscious and thereafter, he committed rape on her while she was unconscious and had video-graphed the scenes and had taken her nude photographs. Thereafter, it is alleged that, by intimidating her by exhibiting those videos and photographs, she was pestered, tortured and harassed sexually and she could not escape from the clutches of the petitioner. She was taken to Coimbatore, where she has to stay with the petitioner at which place, the second accused, who is none other than the brother-in-law of the defacto complainant, had also subjected the defacto complainant to rape. The petitioner was arrested on 17.11.2014 and thereafter he has been in custody.

4. Heard learned counsel for the petitioner and the learned Public Prosecutor. Perused the CD.

5. The contents of the CD reveal that the investigation of this case is practically over. At the same

time, it is a fact that the second accused is at large and he is abroad. The fact that the second accused could not be arrested does not stand in the way of enlarging the petitioner on bail. No criminal antecedents have been reported against the petitioner. Continued detention of the petitioner in custody is not required for the continued investigation of this case. Having regard to the period undergone by the petitioner in custody, the present stage of investigation and the absence of any criminal antecedents on his part, I am of the view that the petitioner can be enlarged on bail.

6. In the result, this Bail Application is allowed and the petitioner shall be enlarged on bail on his executing a bond for ₹1,00,000/- (Rupees one lakh only) with two solvent sureties for the like sum each to the satisfaction of the concerned Judicial First Class Magistrate's Court, and subject to the following terms and conditions:-

(i) The petitioner shall report before the

Investigating Officer in between 9 a.m. and 11 a.m. on all Thursdays and Mondays commencing from 15.01.2015 for a period of six months.

(ii) Except for observing condition No.(i) above, the petitioner shall not enter the local limits of the Pala Police Station, Kottayam for a period of six months from today.

(iii) The petitioner shall surrender his passport before the court below, and in case he has no passport, he shall file an affidavit to that effect before the court below.

(iv) The petitioner shall neither contact the girl or her family members nor shall make any attempt for the same, either directly or indirectly.

(v) The petitioner shall not tamper with the evidence or influence witnesses.

(vi) The petitioner shall make himself available for interrogation as and when required by the Investigating Officer.

(vi) The petitioner shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

ul/-

Sd/- B.KEMAL PASHA, JUDGE

[True copy]

P.S. to Judge