

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

Cr1.MC.No. 4555 of 2015

CRIME NO. 675/2015 OF ALATHUR POLICE STATION, PALAKKAD

PETITIONER/ACCUSED 1.:

RUGMANI, AGED 41 YEARS,
W/O.KUTTYKRISHNAN, KOLAROAD HOUSE,
VAVULIYAPURAM,
KAVASSERRY, ALATHUR,
PALAKKAD.

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM-682 031.

BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 21-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 4555 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A. COPY OF THE FIR IN CRIME NO.675/2015 OF ALATHUR
POLICE STATION, PALAKKAD ALONG WITH F.I.STATEMENT

ANNEXURE-B. COPY OF THE ORDER DATED 1/7/2015 IN CRL. MP
NO.1636/2015 OF THE COURT OF SESSIONS PALAKKAD DIVISION

ANNEXURE-C. COPY OF THE ORDER IN BA 4083/2015 OF THIS HONOURABLE
COURT DATED 17/7/2015.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.4555 of 2015

Dated this the 21st day of July, 2015

O R D E R

The petitioner herein is the 1st accused in Crime No.675/2015 of the Alathur Police Station, registered under Sections 447, 341, 323, 324, 204(b) r/w 34 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the SC/ST Act'). On the apprehension of arrest during investigation, she seeks orders from this Court under Section 482 of the Code of Criminal Procedure, directing the learned Magistrate to release her on bail. Such a relief cannot be granted by this Court under Section 482 of the Code of Criminal Procedure when anticipatory bail under Section 438 of the Code of Criminal Procedure, is barred under Section 18 of the SC/ST Act. The petitioner will have to surrender before the learned Magistrate, and make application for regular bail under Section 437 of the Code of Criminal Procedure. Though anticipatory bail is barred under Section 18 of the SC/ST Act, the learned Magistrate having jurisdiction can entertain the application for regular bail and pass appropriate orders. The offence alleged is not one punishable death or imprisonment for life. The learned Magistrate will have to examine the case records, and see whether this is in fact a case coming under

the SC/ST Act. For a prosecution under Section 3(1)(x) of the SC/ST Act it must be proved that the alleged offence was committed within public view, and also with the object of abusing or humiliating a member of Scheduled Caste or Tribe on the ground that he or she belongs to such a caste. Possibility of the Act being misused will have to be examined by the learned Magistrate when application for bail comes. This Court has already granted pre-arrest bail to the other accused on the consideration that specific allegations under Section 3 (1)(x) of the SC/ST Act are seen made only against the 1st accused. If the petitioner deserves bail, she can definitely be granted bail, by the learned Magistrate having jurisdiction.

In the result, this Criminal Miscellaneous Case is disposed of with a direction to the learned Magistrate having jurisdiction that in case the petitioner makes application for bail, on surrender, in Crime No.675/2015 of Alathur Police Station, the same shall be judiciously considered and appropriate orders shall be passed, on the date of surrender itself, however with notice to the other side.

**P.UBAID
JUDGE**

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