

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

Crl.MC.No. 6424 of 2015 ()

CRIME NO. 258/2015 OF ATHOLY POLICE STATION , KOZHIKODE

PETITIONER/ACCUSED:

**LENIN RAJ, AGED 27 YEARS,
S/O. PREMA RAJAN, CHELAMPATIL HOUSE,
VELUR ATHOLI P.O., KOZHIKODE DISTRICT.**

**BY ADVS.SRI. P. SAMSUDIN
SRI. JITHIN LUKOSE**

RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
30-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 6424 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A1: TRUE EXTRACT OF THE FIS IN CRIME NO. 258/2015 OF ATHOLI
POLICE STATION.**

**ANNEXURE A2: CERTIFIED COPY OF THE ORDER DATED 22.09.2015 IN
CRL.M.C. 2016/2015 OF THE SESSIONS COURT, KOZHIKODE.**

ANNEXURE A3: TRUE COPY OF THE IDENTITY CARD OF THE PETITIONER.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

PA TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.6424 of 2015
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Dated this the 30th day of September, 2015

ORDER

The petitioner is the accused in Crime No.258 of 2015 of the Atholi Police Station registered under Sections 452 and 376 read with Section 511 of the Indian Penal Code, and also under Sections 3(1)(x)(xi) and 3(2)(v) of the Schedules Castes and the Scheduled Tribes (Prevention of Atrocities) Act. On the apprehension of arrest, the petitioner approached the Court of Session, Kozhikode for pre-arrest bail. That application was dismissed in view of the bar under Section 18 of the SC/ST Act. However, the learned Sessions Judge observed that the petitioner will have to surrender before the learned Magistrate having jurisdiction, and make application for regular bail. It appears that he is not satisfied with the said order. He seeks a clear direction to the learned Magistrate to consider the application for bail on merits. Ofcourse, it is true that pre-arrest bail is barred under Section 18 of the SC/ST Act. But, the learned Magistrate having jurisdiction can very well entertain application for regular bail under Section 437 Cr.P.C, and take appropriate decision. Prosecution

under the SC/ST Act is an area where there is possibility of misuse. This will have to be taken care of by the learned Magistrate, when application for bail comes. It is submitted that what is alleged in the complaint is at the most only the offence of house trespassed, and outrage of the modesty of woman. The learned counsel submits that there is absolutely nothing to attract the provisions of the SC/ST Act. Let these aspects be gone into by the learned Magistrate in taking decision on the application for bail.

In the result, this Crl.M.C. is disposed of, with direction to the learned Judicial First Class Magistrate Court-II, Perambra that in case application for bail is filed by the petitioner herein under Section 437 Cr.P.C. it shall be judiciously considered, and decided as indicated above, on the date of application itself, however with notice to the other side.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE