

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 15TH DAY OF MARCH 2022 / 24TH PHALGUNA, 1943

BAIL APPL. NO. 1529 OF 2022

CRIME NO.25/2022 OF KARUKACHAL POLICE STATION, KOTTAYAM

DISTRICT

PETITIONER/4TH ACCUSED:

ABIN VARGHESE
AGED 29 YEARS
KOCHUPARAMBIL HOUSE, S.N. PURAM.P.O, KOOROPPADA,
KOTTAYAM., PIN - 686502

BY ADVS.
C.S.MANILAL
S.NIDHEESH

RESPONDENT:

STATE OF KERALA, REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM, PIN - 682031

BY PUBLIC PROSECUTOR

OTHER PRESENT:

SRI. NOUSHAD K.A. (SR.PP)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 15.03.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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ORDER

This is an application for regular bail.

2. The petitioner is the 4th accused in Crime No. 25 of 2022 of Karukachal Police Station, Kottayam District, alleging commission of offences under Sections 109, 114, 506(1), 370, 376, 376D & 377 of the Indian Penal Code.
3. The allegation against the petitioner is that the petitioner sexually abused and raped the *de facto* complainant, who is the wife of the 1st accused in the case.
4. The learned counsel for the petitioner submits that the petitioner is absolutely innocent in the matter. It is submitted that even according to the First Information Statement of the *de facto* complainant, the husband of the *de facto* complainant had invited others including the petitioner to enter into sexual relationship with the *de facto* complainant. It is further submitted that if at all, the allegations are taken to be true, it can only be a consensual act and does not amount to rape. It is submitted that the petitioner has been in custody for 66 days and that his continued detention is not necessary for the purpose of any investigation in the matter. It is also submitted that the accused Nos. 2, 3 & 5 have already been

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granted bail by the Sessions Court. It is further submitted that the role of the petitioner is not different from that of the accused, who have already been granted bail.

5. The learned Public Prosecutor vehemently opposes grant of bail. The circumstances appearing in the case are pointed out from the records. It is submitted that the petitioner is accused of very serious offences and he is not entitled to be released on bail. It is submitted that only the 2nd accused has been granted bail.
6. Having regard to the facts and circumstances of the case and taking into account the fact that the petitioner has been in custody for 66 days and being convinced that his continued detention is not necessary for the purpose of any investigation, I am of the view that the petitioner can be granted bail, subject to conditions. I also take note of the fact that the accused has already been granted bail by the Sessions Court.

In the result, the bail application is allowed and it is directed that the petitioner shall be released on bail subject to the following conditions:

- (a) The petitioner shall execute bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional

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court;

- (b) Petitioner shall appear before the investigating officer in Crime No. 25 of 2022 of Karukachal Police Station, Kottayam District, whenever called upon to do so;
- (c) The petitioner shall not attempt to interfere with the investigation or to influence or intimidate the *de facto* complainant or any witness in Crime No. 25 of 2022 of Karukachal Police Station, Kottayam District;
- (d) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions is violated, the investigating officer in Crime No. 25 of 2022 of Karukachal Police Station, Kottayam District, may file an application before the jurisdictional court for cancellation of bail.

Sd/-

GOPINATH P.

JUDGE