

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

TUESDAY, THE 17TH DAY OF MAY 2022 / 27TH VAISAKHA, 1944

BAIL APPL. NO. 3329 OF 2022

CRIME NO.503/2022 OF ERNAKULAM NORTH POLICE STATION, ERNAKULAM

PETITIONER/ACCUSED:

DR.SREE HARI.N.

AGED 44 YEARS

S/O.V.P.NARAYANAN NAIR, SREE HARI, PMRA 105,

S.K.MARAR LANE, A.M.ROAD, PERUMBAVOOR., PIN - 683542

BY ADVS.

R.ANIL

M.SUNILKUMAR

SUJESH MENON V.B.

T.ANIL KUMAR

THOMAS ABRAHAM (NILACKAPPILLIL)

THOMAS SABU VADAKEKUT

MAHESH BHANU S.

S.LAKSHMI SANKAR

RESSIL LONAN

RESPONDENT:

STATE OF KERALA

REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA,

PIN - 682031

BY ADV VIPIN NARAYAN, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
17.05.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.JAYACHANDRAN, J.

B.A.No.3329 of 2022

Dated this the 17th day of May, 2022

O R D E R

In the instant application for regular bail, petitioner is a sole accused in Crime No.503/2022 of Ernakulam Town North Police Station. The offence alleged is one under Section 376(2)(n) of Indian Penal Code. The prosecution would allege that the petitioner/accused, in order to satisfy his lust, gave the defacto complainant a false promise to marry. Under the spell of such promise, the defacto complainant was taken to Sinna Dorai's, Bungalow at Valpara and was subjected to rape. Thereafter, in February, 2020, the defacto complainant was taken by the petitioner to Club Mahindra Resort at Coorg, where also the petitioner committed rape on

the defacto complainant. Again on 15.03.2020, the offence was repeated at Sui Palace at Chittoor Road, Ernakulam. Further, the petitioner committed rape on the defacto complainant from April, 2021 onwards on several occasions at Pulikal Avenue Apartments, Kathrikadavu, thus committing the offence enumerated above.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor. Perused the records. This application was opposed by the learned Public Prosecutor.

3. Having heard the learned counsel appearing on both sides, this Court is inclined to allow this Bail Application and to enlarge the petitioner on bail. This Court takes stock of the fact that the petitioner has been in the judicial custody for the past 28 days, he having been arrested and remanded to custody on 19.04.2022. It is noticed that

both the petitioner and the defacto complainant are medical professionals, having specialization in Orthopedics and that both suffers from a broken marriage. Proceedings for divorce of the petitioner, as also, the defacto complainant were either complete, or nearing completion. Going by the prosecution allegations, the defacto complainant was allegedly raped on different occasions at various places, from which it could reasonably be deciphered at there was consent, *prima facie*. The solicitory question which surfaces is whether such consent is vitiated by the alleged promise to marry, which question to be gone into by the trial Court, after adducing evidence. The petitioner has been the custody for the past 28 days, thus serving the purpose of interrogation adequately. This Court, in the afore referred circumstances, finds that no useful purpose is going to be served by

incarcerating the petitioner any more.

5. In the result, this Bail Application is allowed and the petitioner is directed to be released on bail on execution of bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties, each for the like amount, to the satisfaction of the trial court, subject to the following conditions:

(i) He shall appear before the investigating officer as and when required by him in writing to do so.

(ii) He shall not attempt to influence or intimidate the witnesses or tamper with evidence.

(iii) He shall not indulge himself in any other offence while on bail.

(iv) He shall not leave India, except with prior permission of the trial court.

In case of breach of any of the bail conditions, the prosecution shall be at

liberty to approach the trial Court for
cancellation of the bail.

Sd/-

C. JAYACHANDRAN

JUDGE

Mn

APPENDIX OF BAIL APPL. 3329/2022

PETITIONER ANNEXURES

ANNEXURE A	THE TRUE COPY OF THE FIS IN CRIM NO.503 OF 2022 OF ERNAKULAM TOWN NORTH POLICE STATION
ANNEXURE B	THE TRUE COPY OF THE FIR IN CRIM NO.503 OF 2022 OF ERNAKULAM TOWN NORTH POLICE STATION
ANNEXURE C	THE EVIDENCES IN THE FORM OF CERTAIN MONEY TRANSACTIONS BETWEEN THE PETITIONER AND FIRST INFORMANT
ANNEXURE D	THE AUDIO CLIP OF THE TALK BETWEEN THE FIRST INFORMANT AND THE UNCLE OF THE PETITIONER OVER PHONE ON TWO OCCASIONS ON 11.04.2022. THE SAME WILL BE PROVIDED WHILE PHYSICAL SUBMISSION OF DOCUMENTS.
ANNEXURE E	THE TRUE COPY OF THE FACE BOOK POST OF THE FIRST INFORMANT FOUND IN HER FACEBOOK PAGE WITH DATE 27TH JULY, 2047.
ANNEXURE F	THE TRUE COPY OF THE RELEVANT INFORMATION FOUND ON THE WEBSITE OF SPARSH HOSPITAL, MANJAAPRA