

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 29TH DAY OF NOVEMBER 2022 / 8TH AGRAHAYANA, 1944

BAIL APPL. NO. 9122 OF 2022

**AGAINST THE ORDER/JUDGMENTBail Appl. 7583/2022 OF HIGH COURT OF KERALA
(CRIME NO.508/2022 OF ALUVA WEST POLICE STATION, ERNAKULAM)**

PETITIONER/S:

INDRAJITH
AGED 37 YEARS
THEKKINEZHATH HOUSE, PANAD, KARUMALLUR VILLAGE., PIN -
683511
BY ADVS.
M.K.FAISAL
M.A.ANZAR
K.G.PREETHY

RESPONDENT/S:

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

OTHER PRESENT:

PP SRI.NOUSHAD K.A

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29.11.2022,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

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B.A.No.9122 of 2022

Dated this the 29th day of November, 2022

ORDER

This is an application seeking regular bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. Petitioner is the 1st accused in Crime No.508/2022 of Aluva West Police Station (Alangad), Ernakulam District. The offences alleged against the petitioner are under Sections 354A, 341, 376(i), 506(i) and Section 420 r/w Section 34 of the Indian Penal Code 1860 apart from Section 66(E) of the Information Technology Act, 2000.

3. According to the prosecution, the accused with intent to cheat and rape the victim, took her to his house in July, 2022 along with the 2nd accused, and sexually assaulted her and thereafter on 09.07.2022, under the guise of apologizing to the victim, again took her to his house and after forcibly tying a *thali*, raped her against her wish and recorded the said act on his mobile phone and later collected an amount of Rs.1,70,000/- from the victim, promising to make available the benefit of a life project and when the amount was demanded back, he refused to return the same and on the other hand, threatened to publish the photos of their physical relationship and thereby committed the offences alleged.

4. Sri.Faisal, learned Counsel for the petitioner contended that the entire prosecution allegations are false and that the incident as alleged had never occurred. It was further submitted that even if the

prosecution allegations are assumed to be true, still, the same would only reveal a consensual relationship. It was also submitted that petitioner and the victim were in a relationship for the last several years and that the attempt of the victim is to gain undue advantage. In any event, learned Counsel submitted that petitioner has been in custody since 25.10.2022, and hence, further detention ought not to be permitted.

5. Sri.K.A.Noushad , learned Public Prosecutor opposed the grant of bail and contended that the allegations against the petitioner are serious and that even though the final report was filed, the continued detention is essential.

6. I have considered the rival contentions.

7. The allegation against the petitioner are serious in nature. However considering the period of detention already undergone, and also the fact that the final report has already been filed, I am of the view that further detention is not essential.

In the result, this application is allowed on the following conditions:-

- (a) Petitioner shall be released on bail on him executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the court having jurisdiction.
- (b) Petitioner shall co-operate with the trial of the case.
- (c) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he attempt to tamper with the evidence.
- (d) Petitioner shall not commit any similar offences while he is on

bail.

(e) Petitioner shall not leave India without the permission of the Court having jurisdiction.

In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with the law, notwithstanding the bail having been granted by this Court.

**BECHU KURIAN THOMAS
JUDGE**

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APPENDIX OF BAIL APPL. 9122/2022

PETITIONER ANNEXURES

Annexure1	TRUE COPY OF THE ORDER OF THE HON`BLE HIGH COURT IN B.A. NO: 7583/2022 DATED 17-10-22.
Annexure2	COPY OF THE ORDER OF THE JFCM II IN CMP NO: 3209/2022 DATED 01-11-2022