

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 10TH DAY OF AUGUST 2022 / 19TH SRAVANA, 1944

BAIL APPL. NO. 4382 OF 2022

[IN CRIME NO.593/2022 OF KATTAPPANA POLICE STATION, IDUKKI]

PETITIONER/ACCUSED:

XXXX
AGED 24 YEARS
XXXX, PIN - 685553

BY ADVS.
K.S.ARUNDAS
AMBILY JOSHY

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

1 STATE OF KERALA
 REPRESENTED BY PUBLIC PROSECUTOR,
 HIGH COURT OF KERALA, ERNAKULAM.

2 XXXX
 XXX

BY ADV.K.A.NOUSHAD - PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
10.08.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

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B.A.No. 4382 of 2022

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Dated this the 10th day of August, 2022

ORDER

This is an application seeking pre-arrest bail filed under Section 438 of Code of Criminal Procedure, 1973.

2. Petitioner is the sole accused in Crime No.593/2022, of Kattappana Police Station, Idukki, alleging offences under Section 376(2)(n) of the Indian Penal Code, 1860 and Section 7 r/w Section 8 of the Protection of Children from Sexual Offences Act, 2012, apart from Section 67(b) of the Information Technology Act, 2000.

3. The prosecution case is that petitioner is alleged to have committed rape on the victim in the year 2019 and thereby committed the offences alleged.

4. Shri. K.S.Arundas, the learned counsel for the petitioner contended that the entire prosecution case is false and that the petitioner and the victim are husband and wife. It was further pointed out that though the incident is alleged to have occurred in February 2019, subsequently, petitioner married the victim on 05.09.2019.

However, after living together for almost three years, petitioner filed an application for divorce on 22.02.2022. The said petition was the cause for filing the complaint on 23.04.2022. It was further pointed out that in the interregnum, the disputes between the petitioner and the victim have been settled and that they have started cohabiting together and the petitioner has approached this Court through CrI.M.C.No.4813/2022 to quash the entire proceedings.

5. Shri.Noushad K.A., the learned Public Prosecutor opposed the grant of bail and contended that the petitioner is alleged to have committed a serious offence.

6. On a consideration of the circumstances arising in the case, though I am of the view that the allegations are serious in nature, custodial interrogation of the petitioner is not required, especially since both the victim and the petitioner are residing together and had even married in 2019 itself. In view of the above, petitioner is entitled to be released on pre arrest bail.

7. Accordingly, 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 for the like sum if he is arrested by the police in connection with this case.

b) Petitioner shall appear before the Investigating Officer for interrogation on 29.08.2022 and shall co-operate with the investigation.

(c) Petitioner shall not destroy or tamper with the evidence or intimidate or threaten or contact the defacto complainant or her family members.

(d) Petitioner shall not commit any other similar offences while he is on bail.

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

8. In case of violation of any of the above conditions, the jurisdictional Magistrate is empowered to cancel the bail in accordance with the law.

**BECHU KURIAN THOMAS
JUDGE**

ssa/