

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

MONDAY, THE 14TH DAY OF NOVEMBER 2022 / 23RD KARTHIKA, 1944

BAIL APPL. NO. 8777 OF 2022

PETITIONER/2ND ACCUSED:

XXX

BY ADV K.SIMOD SIVAN

RESPONDENTS/STATE:

- 1 STATE OF KERALA
 REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
 KERALA, PIN - 682031
- 2 STATION HOUSE OFFICER
 ALAPPUZHA SOUTH POLICE STATION, ALAPPUZHA, PIN -
 688001

 BY ADV PUBLIC PROSECUTOR

PP SMT.M.K PUSHPALATHA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 14.11.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

BECHU KURIAN THOMAS, J.

B.A. No.8777 of 2022

Dated this the 14th day of November, 2022

ORDER

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

2. Petitioner is the 2nd accused in Crime No.814 of 2022 of Alappuzha South Police Station, alleging offences punishable under sections 342, 323, 506, 376(2) n r/w section 34 of the Indian Penal Code, 1860 apart from Section 67(A) of the Information Technology Act, 2000.

3. The Prosecution alleges that the 1st accused who is the husband of the petitioner had acquainted with the victim and raped her on several days and 2nd accused showed the nude photographs taken in his mobile phone to the friends of the 1st accused and thereby the petitioner also committed the offences alleged.

4. Sri.Simod Sivan, learned counsel for of the petitioner, contended that the prosecution allegations are false and that petitioner has no role at all in the offence. It was further submitted that the petitioner is four months pregnant and that, if

she is detained in custody the same would affect her pregnancy. The learned counsel also submitted that the petitioner is willing to abide by any condition that may be imposed on her. It is further submitted that 1st accused who is her husband was arrested and was granted regular bail.

5. Smt.M.K.Pushpalatha, learned Public Prosecutor oppose the grant of bail contended that the allegations are serious and require custodial interrogation.

6. I have considered the rival contentions and have also perused the statement of victim.

7. The allegation against the 1st accused is serious and as far as the 2nd accused is concerned, she is alleged to have shown nude photographs of the victim taken by her husband to other persons. Considering the entire circumstances including the pregnancy of the petitioner, I am of the view that though the allegations are serious, petitioner ought to be protected with an anticipatory bail. However, the interrogation of the petitioner, under a limited custody is essential for the purpose of completing the investigation.

8. Accordingly, the petitioner shall appear before the Investigating Officer at 9:00 AM on 21.11.2022, and shall subject herself to interrogation. Thereafter in the event of the petitioner

being arrested, she shall be released bail on her executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties before the Investigating Officer.. The petitioner shall also abide by the following conditions,

- i. She shall appear before the Investigating Officer as and when required.
- ii. She shall co-operate with the investigation.
- iii. She shall not intimidate or influence the witnesses and nor shall she contact the de facto complainant.

In the event of any condition of bail being violated the jurisdictional Court will be entitled to consider the application for cancellation of bail, as and when filed.

This bail application is allowed as above

**BECHU KURIAN THOMAS
JUDGE**

Raj.14.11.2022