

Sarathkumar, vs State of Kerala,

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Court : Kerala

Decided On : Feb-08-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./470/2022

Appellant : Sarathkumar,

Respondent : State of Kerala,

Judgement :

B.A.No.470/2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
TUESDAY, THE 8TH DAY OF FEBRUARY 2022 / 19TH MAGHA, 1943
BAIL APPL. NO. 470 OF 2022 CRIME NO.12/2022 OF PUTHUKAD
POLICE STATION, THRISSUR DISTRICT PETITIONER/ACCUSED:
SARATHKUMAR, AGED 27 YEARS S/O. SASI, KURUVATH HOUSE,
ALATHOOR DESOM, KODAKARA, THRISSUR-680684. BY ADVS.
P.VIJAYA BHANU (SR.) P.M.RAFIQ M.REVIKRISHNAN AJEESH
K.SASI MITHA SUDHINDRAN SRUTHY N. BHAT RAHUL SUNIL
SRUTHY K.K

RESPONDENT/COMPLAINANT: STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031. OTHER PRESENT: ADV SEETHA -PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.470/2022 2

ORDER

This is an application for anticipatory bail.

2. The petitioner is the accused in Crime No.12/2022 of Puthukad Police Station, Thrissur District, alleging commission of offences under Sections 451, 376(2)(n) and Section 506 of the Indian Penal Code.

3. The allegation against the petitioner is that he entered into a

relationship with the de facto complainant and maintained the same for about five months on the promise that he will marry the de facto complainant. It is alleged that, on the basis of such promise, the petitioner had sexual relationship with the de facto complainant and, thereafter, he withdrew from the promise of marriage and thereby he committed the offences alleged against him.

4. Sri. P. Vijaya Bhanu, the learned senior counsel appearing for

the petitioner on the instructions of Ms. Sruthy N. Bhat would contend that while it may be that the petitioner was in a relationship with the de facto complainant, no element of rape as alleged is involved in the

matter. It is submitted that the petitioner is a 27 year old man and the de facto complainant is a 31 year old married lady with a 7 year old daughter. It is submitted that though she is living separately from her husband, her marriage is still subsisting. It is submitted that, in such circumstances, there could be no promise of marriage as the marriage of

the de facto complainant with her husband is still subsisting. It is also pointed out that in month of November 2021, a complaint had been lodged B.A.No.470/2022 3

by the de facto complainant before the Vanitha Police Station, Thrissur, which was subsequently withdrawn as can be seen from Annexure-I. It is submitted that much later the information which led to registration of Crime No.12/2022 was given.

5. The learned Public Prosecutor on instructions would submit

that the allegations against the petitioner are serious. It is submitted that going by the information given by the de facto complainant, she had consented to a relationship with the petitioner only on the promise of marriage. It is submitted that it is evident from Annexure-I itself that the earlier complaint was withdrawn only after it was decided that the matter would be settled between the families of the de facto complainant and the petitioner. It is submitted that the withdrawal of the earlier complaint is no reason to believe that the petitioner was not guilty of the offences alleged against him. It is also submitted that the fact that the petitioner is only aged 27 and the de facto complainant is aged 31, is no ground to hold that there was no promise of marriage. It is also submitted that, according to the information given by the de facto complainant, the petitioner had threatened her that she would be attacked using acid.

6. Having regard to the facts and circumstances of the case and

considering the nature of the allegations against the petitioner, I am of the view that the interest of the prosecution can be served by making it clear that a limited custody of the petitioner shall be available to the prosecution even while the bail is being granted to him. I am clear in my mind that the custodial interrogation of the petitioner may not be necessary.

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7. In the result, this application is allowed. It is directed that the petitioner shall be released on bail, in the event of arrest in Crime No.12/2022 of Puthukad Police Station subject to the following conditions:-

(i) 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 Court;

(ii) Petitioner shall appear before the investigating officer in Crime No.12/2022 of Puthukad Police Station at 9 a.m. On 14.2.2022 and 15.2.2022 and thereafter, whenever called upon to do so;

(iii) Petitioner shall not attempt to contact the de facto complainant or interfere with the investigation or to influence or intimidate any witness in Crime No. 12/2022 of Puthukad Police Station;

(iv) Petitioner shall not involve in any other crime while on bail. If any of the aforesaid conditions are violated, the Investigating officer in Crime No. 12/2022 of Puthukad Police Station may file an application before the jurisdictional Court for cancellation of bail. sd/- GOPINATH P. JUDGE acd

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