

Radhakrishnan V.C. vs 1. State of Kerala Represented by Its Public Prosecutor,

Radhakrishnan V.C. vs 1. State of Kerala Represented by Its Public Prosecutor,

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Court : Kerala

Decided On : Mar-10-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./524/2022

Appellant : Radhakrishnan V.C.

Respondent : 1. State of Kerala Represented by Its Public Prosecutor,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
THURSDAY, THE 10TH DAY OF MARCH 2022 / 19TH PHALGUNA,
1943 BAIL APPL. NO. 524 OF 2022 Crime No.34/2022 of Eloor Police
Station PETITIONER/ACCUSED: RADHAKRISHNAN V.C. AGED 32
YEARS, S/O. CHANDRASEKHARAN, 'ALIYAPARAMBIL', ELOOR
NORTH, UDYOGAMANDAL P.O., ERNAKULAM, PIN - 683501 BY
ADVS. D.KISHORE R.MURALEEKRISHNAN (MALAKKARA) MEERA
GOPINATH RESPONDENTS/STATE & COMPLAINANT:

1 STATE OF KERALA REPRESENTED BY ITS PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN -
682031 2 THE ASSISTANT COMMISSIONER OF POLICE, OFFICE OF
THE ASSISTANT COMMISSIONER OF POLICE, THRIKKAKARA,
COCHIN, PIN - 682021 3 THE STATION HOUSE OFFICER,
ELOORPOLICE STATION, ERNAKULAM , PIN - 683501 4
XXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX BY ADV K.K.RAJEEV
OTHER PRESENT: SRI. T.R. RENJITH (SR.PP) THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 10.03.2022,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.
No.524/2022 -2-

ORDER

The petitioner is the accused in Crime No.34/2022 of Eloor Police Station, Ernakulam District alleging commission of offences under Sections 376 (2) (n) of the Indian Penal Code read with Section 3 (1) (w) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. The allegation against the petitioner is that the petitioner entered into relationship with the de facto complainant in the year 2013 and continued that relationship till 2019 on the false promise of marriage. It is alleged that the

petitioner engaged in sexual relationships with the de facto complainant after promising him to marry her and now the petitioner has decided to solemnize his marriage with another person.

3. The learned counsel appearing for the petitioner would submit that the

petitioner is absolutely innocent in the matter. It is submitted that the petitioner and the de facto complainant are neighbours and even if all the allegations in the First Information Statement are accepted as true it can only be taken to be a consensual relationship between two adults. It is submitted that the petitioner and de facto complainant were in relationship for long number of years and the complaint was filed only on account of the fact that the petitioner had decided to

get married to another person. It is submitted that there was no promise of marriage and the offence of rape has been not been committed

4. The learned Public Prosecutor and the learned counsel for the de facto complainant vehemently oppose the grant of bail. It is submitted that the petitioner had cheated the de facto complainant and had obtained her consent for

B.A. No.524/2022 -3- sexual relationships on the false promise of marriage. It is submitted that it is clear from the facts of the case that the promise of marriage was false at the inception and therefore the offence of rape is clearly attracted and that the contention that the allegations were raised only belatedly cannot of accepted for the fact that even according to the petitioner that the relationship was alive till 2019. It is submitted that the petitioner is not entitled to be released on anticipatory bail as his custody is essential for the purposes of investigation.

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

considering the fact that the petitioner and the de facto complainant appear to have been in a relationship for large number of years, I am of the view that the petitioner can be granted anticipatory bail subject to conditions. Prima facie there seems to be merit in the contention of the petitioner that even if there a promise of marriage, it cannot be said that the same was false at the inception. The long period of relationship suggests so.

In the result, this bail application is allowed. It is directed that the petitioner shall be released on bail, in the event of arrest in connection with Crime No.34/2022 of Eloor Police Station subject to the following conditions:-

(i) Petitioner shall execute a 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 report before the Investigating officer in Crime No.34/2022 of Eloor Police Station at 10 a.m on 16-03-2022, 17-03-2022 and 18- 03-2022 and thereafter as and when called upon to do so; B.A. No.524/2022 -4-

(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.34/2022 of Eloor 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.34/2022 of Eloor Police Station may file an application before the jurisdictional Court for cancellation of bail. Any observations made in this order is only for the purpose of considering the entitlement of the petitioner for bail and it shall not be treated as finding by this court on any point. Sd/- GOPINATH P. JUDGE AMG

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