

BAIL APPL. NO. 10404 OF 2022

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

MONDAY, THE 9TH DAY OF JANUARY 2023 / 19TH POUSHA, 1944

BAIL APPL. NO. 10404 OF 2022

CRIME NO.1369/2022 OF Ernakulam South Police Station, Ernakulam

DIMPLE LAMBA @ DOLLY

AGED 21 YEARS

D/O ANILKUMAR, WARD NO. 16, RAMVALA KUWA, RAJAGRAH, ALWAR
DISTRICT, RAJASTHAN, PIN - 465661

BY ADVS.

V.S.THOSHIN

P.M.AFSAL MOHAMED

RESPONDENT/S:

STATE OF KERALA

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

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09.01.2023,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

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B.A.No.10404 of 2022

Dated this the 9th day of January 2023

ORDER

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

2. Petitioner is the 4th accused in Crime No.1369/2022 of Ernakulam Town South Police Station. The offences alleged against the petitioner are under Sections 370(I), 376, 376D, 323 and 120B r/w Section 34 of the Indian Penal Code, 1860.

3. According to the prosecution, on 17.11.2022, the accused 1 to 3 had, after mixing a drug in the beer drunk by the victim, took her into a vehicle and repeatedly raped her inside the moving vehicle, and the 4th accused had paved the way for the victim, to be abused by accused 1 to 3 and thus committed the offences alleged.

4. Sri.Thoshin, learned Counsel for the petitioner submitted that the prosecutions allegations are false and the petitioner is totally innocent. It was further alleged that, the act committed by accused 1 to 3 was not at all known to the petitioner and that she had no role other than being a friend of the victim. According to the learned Counsel, petitioner as well as the victim were pursuing a career in modelling and that accused Nos.1 to 3 had abused the victim without any participation of the 4th accused. However, on the basis of mere suspicion, petitioner was arrayed as an accused. Learned Counsel also submitted that since the petitioner

was arrested on 19.11.2022 and taking into reckoning her young age, further detention ought not to be permitted.

5. Sri.K.A.Noushad, learned Public Prosecutor on the other hand opposed the grant of bail and submitted that the victim had specifically mentioned about the role of the petitioner in the offence. The learned Public Prosecutor also submitted that petitioner came along with accused Nos.1 to 3 to the hotel and even introduced the victim to them. Thereafter when the victim got drugged, she purposely avoided getting into the vehicle, clearly indicating her participation in the crime. Learned Public Prosecutor also submitted that the sequence of events and other circumstances surrounding the petitioner clearly indicates her active role in the offence committed and therefore, releasing her on bail at this juncture, would cause prejudice to the investigation. It was also submitted that the sequence of events identified from the CCTV footages obtained from various parts of the city, also indicates the involvement of the petitioner.

6. I have considered the rival contentions and have also perused the case diary.

7. The victim had specifically stated, at the initial stage itself, that the petitioner had an active role in the crime committed. The sequence of events as pointed out by the learned Public Prosecutor also indicates prima facie, the possibility of an active role played by the petitioner. However, taking note of her young age, and the period of detention already undergone including the stage of investigation, I am of the view that no further purpose would be served by continuing the

petitioner in detention. Moreover she is a woman falling within the beneficial provision of the first Proviso to Section 437 of Cr.P.C.

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

- (a) Petitioner shall be released on bail on her 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. One of the sureties shall be a local surety and the other surety shall be a close relative of the petitioner
- (b) Petitioner shall appear before the Investigating Officer as and when required and on every alternate Saturday between 10.00 am and 11.00 am till the filing of final report .
- (c) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall she tamper with the evidence or contact the victim or her family members.
- (d) Petitioner shall not commit any similar offences while she is on bail.
- (e) Petitioner shall not leave Ernakulam District until filling of the final report and thereafter, she shall not leave the State of Kerala, without the permission of the Court having jurisdiction till conclusion of trial.

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. 10404/2022

PETITIONER ANNEXURES

Annexure1

THE CERTIFIED COPY OF THE BAIL ORDER IN CRL.
M.C 2884/2022 OF THE DISTRICT AND SESSIONS
COURT, ERNAKULAM DATED 16/12/2022