



2026:KER:36667

Crl.Appeal No.583/2026

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

THURSDAY, THE 26th DAY OF MAY 2026 / 5TH JYAISHTA, 1948

CRL.A NO. 583 OF 2026

CRIME NO.456/2026 OF Palakkad Town South Police Station, Palakkad

AGAINST THE ORDER DATED 17.04.2026 IN CRMP NO.2 OF 2026 OF
SPECIAL COURT-TRIAL OF OFFENCE UNDER SC/ST(POA)ACT1989, MANNARKKAD

APPELLANT/ACCUSED:

PRASOBH M. ,
AGED 41 YEARS,
SON OF VALSA KUMAR,
SREEVATSAM, 15/430 PALAYAPETTA,
PALAKKAD DISTRICT, PIN - 678001.

BY ADVS.
SHRI.SREEJITH S. NAIR
SHRI.SASTHAMANGALAM S. AJITHKUMAR (SR.)
SRI.SATHEESH MOHANAN
SMT.MAHIMA

RESPONDENTS/COMPLAINANT:

1 STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
PIN - 682031.

2 XXXXXXXXXXXX
XXXXXXXXXXXX XXXXXXXXXXXX

BY ADV
SRI.NIREESH MATHEW
SRI.VIPIN NARAYAN A. , SENIOR PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON
21.05.2026, THE COURT ON 26.05.2026 DELIVERED THE FOLLOWING:

***A. BADHARUDEEN, J.***

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Crl.Appeal No.583 of 2026
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Dated this the 26th day of May, 2026

J U D G M E N T

Order dated 17.04.2026 in Crl.M.P.No.2 of 2026 in Crime No.456 of 2026 of Palakkad Town South Police Station, Palakkad is under challenge in this appeal. The appellant is the accused in the above crime.

2. Heard the learned counsel for the appellant/accused, the learned counsel appearing for the victim and also the learned Public Prosecutor in detail.

3. The prosecution alleges commission of the offences punishable under Sections 332(b), 64(2)(m), 64(2)(b), 69, 115(2) and 351(2) of the Bharatiya Nyaya Sanhita (for short 'the BNS'), and Sections 3(1)(s), 3(1)(w)(i) and 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'the SC/ST (POA) Act') by the appellant. The allegations as seen from the FIS and other statement of the defacto complainant is that, the appellant/accused, who is not a



member of either Scheduled Caste or Scheduled Tribe and who is none other than the 24th Ward Councillor of Palakkad Municipality made acquaintance with the victim, a member of Scheduled Caste Pallan community by offering employment on disclosing the status of the appellant/accused as the Councillor of the Palakkad Municipality having good connection with M.P and MLAs of the Congress party. On the premises of the said relationship, the appellant/accused met her at the tea shop run by his grandfather and understood that the defacto complainant is an orphan, completed Plus Two education and has been attending a beautician course through online is in need for an employment. In the meanwhile, the appellant/accused agreed to provide her employment and developed a relationship on the premise that he would look after her affairs. In continuation of the said relationship, on a date during February 2026, the appellant/accused reached her residence, taken her outside on the premise of meeting a person to secure the job offered. Then the appellant subjected her to forceful sexual intercourse and when she cried, he pacified that he would protect her and continued the same on another day on the same month reiterating his high position having connection with MLA and MP. Thereafter, she became pregnant. According to the defacto



complainant, while she was subjected to forceful intercourse, the appellant/accused disclosed his relationship between Sri.Shafi Parambil, MLA and Sri.Sreekandan, MP and other. Later, appellant/accused compelled the defacto complainant to abort her pregnancy with offer to protect her and given tablets for the same. But she did not take the same.

4. The learned senior counsel appearing for the appellant/accused argued that the appellant/accused is innocent and he did not commit the offences alleged. According to him, going by the FIS, the relationship is to be found as consensual in nature in between two adult persons and, in such a case, Section 64 of the BNS has no application; if so, none of the other offences would attract. According to him, Annexure A3 is a complaint lodged by the defacto complainant to the Chief Minister of Kerala dated 24.03.2026, wherein the allegations in the FIS regarding forceful sexual intercourse could not be found and the same also creates doubt regarding the allegations of the prosecution. That apart, the learned senior counsel submitted that the appellant/accused is ready to be abide any conditions imposed by this Court for granting pre-arrest bail for subjecting himself for interrogation as well as production of his mobile



phone and other relevant documents for the purpose of investigation.

Therefore, his custodial interrogation may be dispensed with and bail may be granted on such conditions.

5. The learned counsel appearing for the defacto complainant strongly opposed grant of anticipatory bail to the appellant/accused and the defacto complainant filed a detailed objection in writing. The relevant Paragraphs are 2, 4, 5, 6 and 9 and the same are extracted below:-

“2. At the outset itself, it is submitted that the petitioner is not an ordinary accused. He is an elected Municipal Councillor belonging to a socially and economically influential community, whereas the victim is a poor Scheduled Caste woman aged only 22 years, hailing from an extremely backward background and struggling for livelihood and studies. The materials collected during investigation clearly reveal that the accused systematically exploited the helplessness, poverty and vulnerability of the victim by offering false promises of employment and protection and repeatedly subjected her to sexual exploitation.

3. xxx xxx xxx

4. It is respectfully submitted that the learned Special Court for SC/ST (POA) Cases, Mannarkkad, after considering the entire factual matrix and hearing all parties including the survivor personally, has already rejected the anticipatory bail application of the accused by a detailed and reasoned order dated 17.04.2026. The proceedings sheet further shows that the defacto complainant personally appeared before the court and opposed the anticipatory bail application.

5. The findings entered by the learned Special Court are extremely relevant and deserve due weight while considering the present bail application. The court below has categorically found that prima facie materials exist revealing that the accused repeatedly engaged in sexual



party, had sexually exploited the victim, after maintaining relationship on the promise of providing an employment. Therefore, consent could not be found in the facts of the case and the consent, if any, is vitiated. Thus, the order impugned is liable to be confirmed.

7. In the instant case, the specific case is that the appellant/accused, who is not a member of either a Scheduled Caste or a Scheduled Tribe and Councillor of Ward No.24 of Palakkad Municipality, developed cordial relationship with the defacto complainant, admittedly an orphan, with offer to provide her an employment while she had been undergoing an online course of Beautician after completion of her Plus Two Course. The allegation of the prosecution is that the appellant/accused met the defacto complainant at the tea shop run by his grandfather and offered employment and on the said premise, that too, by exploiting his position as the Ward Councillor having relationship with Sri Shafi Parambil, MLA and Sri Sreekandan, MP, subjected the defacto complainant to forceful sexual intercourse. It is discernible from the statements of the defacto complainant that she was taken outside for committing forceful sexual intercourse on the premise of meeting another



men for the purpose of employment. It is well settled that consensual sexual intercourse between a male and a female would not attract an offence of rape. At the same time, when consent is obtained as stated in Section 64 of BNS, then consent is said to be vitiated. Section 69 of BNS provides that *whoever, by deceitful means or by making promise to marry a woman without any intention of fulfilling the same, and has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.*

8. Explanation to Section 69 of BNS provides that “*deceitful means*” shall include the false promise of employment or promotion, inducement or marrying after suppressing identity.

9. Here the appellant/accused, a Municipal Ward Councillor and political leader, subjected the defacto complainant by deceitful means, by offering employment to her on posing his political position and also as a person having support from other leading politicians and no job also provided. Thus the appellant taken advantage of helplessness of the victim, being an orphan, and thus *prima facie* offence



under Section 69 of BNS would attract. In the instant case, 2 occurrences were stated and the first one is consent obtained as already discussed by offering employment and the second one also is by offering employment highlighting his close relationship with the MLA, M.P etc. Thus, *prima facie*, the offences punishable under Sections 332(b), 69, 115(2) and 351(2) of the BNS as well as Sections 3(1)(w)(i) and 3(2)(v) of the SC/ST (POA) Act are made out as per the allegations in the FIS and other statements. Therefore, the bar under Section 18A of the SC/ST (POA) Act would apply and in such a case anticipatory bail cannot be granted as arrest, custodial interrogation, medical examination of the accused, verification of his mobile phone etc. are inevitable to accomplish effective investigation and successful prosecution.

10. According to the learned counsel for the appellant/accused, in the complaint filed by the victim before the Chief Minister the allegations as stated in the FIS could not be found. In fact, the crux of the allegations therein are stated therein though not stated in detail. Therefore, the same is not a reason to disbelieve the version of the victim, where the prosecution has a specific allegation that in continuation



of the sexual relationship, the victim became pregnant as seen from the medical certificate dated 30.03.2026 issued by Dr.Birla.K showing the pregnancy, produced by the appellant/accused and also by the prosecution.

11. In this case, for the reasons stated above the order of the Special Court negating the anticipatory bail of the appellant/accused is only to be justified. Therefore, this appeal would necessarily fail. Thus the impugned order doesn't require any interference. Hence, the Appeal fails and is accordingly dismissed.

In view of the dismissal of this appeal, the Investigating Officer is directed to proceed against the appellant/accused as per law, without fail to ensure effective investigation of this case.

Sd/-

A. BADHARUDEEN, JUDGE

rtr/

