



2026:KER:47175

Crl.Appeal No.793

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

MONDAY, THE 29<sup>TH</sup> DAY OF JUNE 2026 / 8TH ASHADHA, 1948

CRL.A NO. 793 OF 2026

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

AGAINST THE ORDER DATED 08.06.2026 IN CRMP NO.7 OF 2026 OF  
SPECIAL COURT-TRIAL OF OFFENCE UNDER SC/ST(POA)ACT 1989,  
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/STATE AND DEFACTO COMPLAINANT:

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

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PUBLIC PROSECUTOR SRI JAYAKRISHNAN.U

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON  
18.06.2026, THE COURT ON 29.06.2026 DELIVERED THE FOLLOWING:



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

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*Crl.Appeal No.793 of 2026*

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*Dated this the 29<sup>th</sup> day of June, 2026*

***J U D G M E N T***

Order dated 08.06.2026 in Crl.M.P.No.7 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 24<sup>th</sup> 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 counsel for the appellant argued that the appellant/accused is innocent and the allegations against him are false. He also pointed out that the relationship in between the victim and the appellant is consensual in nature and, therefore, the offence alleged against the appellant/accused would not attract, *prima facie*. He also submitted that, after the dismissal of the anticipatory bail application filed by the appellant as per Annexure 3 order, he had surrendered and accordingly he was arrested and remanded to judicial custody. He submitted that the appellant has been in custody since 27.05.2026, where the investigation has achieved much progress.

5. The learned counsel appearing for the defacto



complainant strongly opposed grant of regular bail and submitted that the victim, a poor girl, was subjected to rape offering employment by the appellant/accused, who is an influential political leader. He vehemently contended that, in such a case, consent is of no significance, to attract offence under Section 69 of BNS. It is also submitted that, since investigation is at the primitive stage, grant of bail to the appellant/accused would be fatal to the prosecution.

6. The learned Public Prosecutor also shared the submissions advanced on behalf of the defacto complainant and opposed the plea for bail. He had submitted that if the appellant would be released on bail, he would interfere with the investigation of the case and threaten the victim at this extreme primitive stage of investigation. Therefore, it is submitted that bail is not liable to be granted to the appellant/accused.

7. Here the argument advanced by the learned counsel for the appellant that the relationship was consensual cannot be considered, as Section 69 of BNS specifically provides that if a person performs sexual intercourse with a woman by deceitful means or by making promise to marry the woman without any intention of fulfilling the same, even though



the same would not come under the purview of Section 64 of BNS, the same would come under the purview of Section 69 of BNS. In the instant case, the prosecution records would show 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.*

In view of the above discussion, release of the appellant at the primitive stage of investigation cannot be considered as the same would impede the investigation and the apprehensions expressed by the learned Public Prosecutor in this regard, including threat to the victim, are having force. Therefore regular bail canvassed by the appellant/accused at the extreme primitive stage of investigation must fail and accordingly this appeal is dismissed, confirming the order impugned.

Sd/-

**A. BADHARUDEEN, JUDGE**

rtr/