

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 28TH DAY OF SEPTEMBER 2022 / 6TH ASWINA, 1944

BAIL APPL. NO. 4858 OF 2022

Crime No.CR 346/11N.PRR.CBCIDHH2, Ernakulam

PETITIONER/S:

PUTHUKKATTU PAREEKUTTY ALIYAR

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
PIN - 682031
- 2 STATION HOUSE OFFICER
CRIME BRANCH, ERNAKULAM
(CRIME NO CR 346/11N.
PRR.CBCIDHH2
ERNAKULAM), PIN - 682018
BY ADV PUBLIC PROSECUTOR

OTHER PRESENT:

0
PP SRI.NOUSHAD K.A

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
28.09.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

B.A.NO. 4858 of 2022

Dated this the 28th day of September, 2022

ORDER

This is an application for pre-arrest bail filed under Section 438 of the Code of Criminal Procedure, 1973.

2. Petitioner is the accused in Crime No. CR 346/11N.PRR.CBCIDHH2, Ernakulam, alleging offences punishable under Sections 366A, 354, 376(2)(g), 506(1) and Section 342 of the Indian Penal Code, 1860.

3. The prosecution case is that between 03-05-2010 and 01-01-2011, the accused committed rape on the minor girl aged only 16 years at a hotel in Ernakulam. According to the prosecution, victim was subjected to rape by several persons on several days during the aforementioned period, and the crime was registered arraying 153 accused of which many had absconded. Petitioner is accused No.31 who has been absconding from 2011 onwards.

4. When this anticipatory bail came up for consideration on 23/9/2022, an interim order was issued by this Court, directing the investigating Officer not to arrest the petitioner till 30-09-2022 to enable him to come down to Kerala from Abudhabi.

5. Sri. S. Rajeev, the learned counsel for the petitioner submitted that pursuant to the aforementioned order petitioner has come down to Kerala today and is presently in front of the Investigating Officer. The learned counsel also submitted that petitioner has been falsely implicated in the crime and that he has no involvement at all in the incident alleged. The learned counsel vehemently contended that the victim had not identified several of the accused and that if a test identification parade is conducted, it would prove that he is innocent. It was further submitted that petitioner was unaware of the registration of the crime and also that he had never absconded. It was only some time back that petitioner became aware of the said crime and he took immediate steps to come down to Kerala to face the investigation. The learned counsel also submitted that taking note of the age of the accused and also the date of the incident, petitioner ought to be granted anticipatory bail. It was also submitted that petitioner is willing to abide by any conditions that may be imposed by this Court.

6. Sri. Noushad K.A., the learned Public Prosecutor seriously opposed the grant of bail and contended that petitioner had been absconding for the last 12 years which practically stifled the investigation for a dozen years. The learned Public Prosecutor also submitted that petitioner's involvement in the crime was specifically spoken to by the victim as well as other witnesses and that the

investigation against the petitioner came to standstill due to his absence from the country. He also submitted that petitioner came down to India now only due to compulsion, since investigating Officer had taken steps to impound/cancel the passport and it is at that juncture that petitioner had filed this bail application.

7. I have considered the rival contentions and have also perused the statement of victim and the other witnesses.

8. The incident is alleged to have occurred in 2011 and the victim had specifically mentioned the instances of rape committed by the various accused. The investigation against the petitioner was stalled for the last 12 years due to the absence of the petitioners in the country. It cannot be believed that petitioner was unaware of the crime registered against him. He was thus absconding for the last 12 years and more. Having regard to the nature of allegations and the gravity of the offence, I am of the view that this is not a fit case where the petitioner can be released on anticipatory bail.

Accordingly, I dismiss this bail application.

**BECHU KURIAN THOMAS
JUDGE**