

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. RAJA VIJAYA RAGHAVAN

SATURDAY, THE 4<sup>TH</sup> DAY OF APRIL, 2020/15<sup>TH</sup> CHAITHRA, 1942

B.A NO. 2310 OF 2020

(CRIME NO.71 OF 2020 OF EDAKKARA POLICE STATION, MALAPPURAM)

PETITIONER/ACCUSED NO.1

BINSA, AGED 31, D/O. SABU, SAROVARAM HOUSE,  
THAMBURAN KUNNU, EDAKKARA DESOM, MALAPPURAM DISTRICT.

BY ADV. SRI.SHAJIN S. HAMEED

RESPONDENT/ STATE

STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM -682 031.

BY SPL.Public Prosecutor, SRI. SUMAN CHAKRAVARTHY

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/04/2020,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:-

**ORDER**

This application is filed under Section 439 of the Cr.P.C.

2. The applicant herein is the 1<sup>st</sup> accused in Crime No. 71 of 2020 registered at the Edakkara Police Station, Malappuram, under Sections 450, 114 & 376 (2)(n) r/w. Section 34 of the IPC.

3. The applicant herein is a lady. She is alleged to have confined the victim in a house and facilitated the commission of rape upon her by the 2<sup>nd</sup> accused. The applicant was arrested on 19.02.2020 and is in judicial custody since then.

4. Sri. Shajin S. Hameed, the learned counsel appearing for the applicant, submitted that two crimes have been registered against the petitioner on the very same allegations. It is contended that the allegation that the petitioner had confined the lady cannot be believed that in one of the allegations, it is alleged that she was taken to a lodge and subjected to sexual abuse. According to the learned counsel the petitioner is innocent.

5. Sri. Suman Chakravarthy, the learned Special Public Prosecutor has opposed the prayer. It is submitted that the allegations are serious and the petitioner has a major role in the commission of the offense.

6. I have gone through the records which are made available.

7. Though prima facie, the allegations appear to be grave, the fact that a lockdown has been imposed in the Country and the citizens therein have been advised to practice social distancing and to quarantine themselves cannot be

ignored. The Hon'ble Supreme Court as well as a Full bench of this Court has issued directions to decongest the Jails. In that view of the matter, the applicant herein can be granted provisional bail for a period of 30 days from today.

In the result, this application will stand allowed. The Superintendent of the jail wherein the applicant is incarcerated is directed to release the applicant provisionally on bail on the applicant executing a personal bond without sureties.

The above order shall be subject to the following conditions:

- i. The applicant shall furnish to the Jail Superintendent, the permanent place of his abode, and he shall undertake that he will remain in quarantine for a period of 30 days from the date of this order. He shall also furnish his phone number and the phone number of his immediate relative. Before releasing the accused, the Superintendent of Jail concerned shall verify the above details. The Superintendent of Jail shall also intimate the release of the applicant to the Station House Officer of the Police Station which has registered the crime.
- ii. On being released from prison, the applicant shall report before the jurisdictional police station and shall furnish a copy of the undertaking furnished before the Jail Superintendent. The SHO concerned shall ensure that the applicant does not leave the premises, where he has undertaken to remain in quarantine till such time the lockdown period continues in force, otherwise than for emergent situations, and exceptional reasons provided under the orders passed by Central and State Governments, for COVID-19 pandemic.
- iii. The applicant shall not tamper with the evidence or influence the witnesses in any manner whatsoever. He shall not make any contact with the victim.
- iv. The applicant shall not commit any offence while on bail.

- v. On the expiry of 30 days, ordered as above, or within three days of the withdrawal of the lockdown by the Government, whichever is earlier, the applicant shall appear before the jurisdictional Court and seek regular bail and the Court shall consider his application on its merits and pass appropriate orders.
- vi. If the applicant violates any of the conditions above, the Station House Officer may approach the jurisdictional Court and may move an application for cancellation of bail, which shall be considered and disposed of by the said Court, notwithstanding the fact that interim bail has been granted by this Court.

**RAJA VIJAYARAGHAVAN V. ,  
JUDGE**

krj