

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 30TH DAY OF JUNE 2020 / 9TH ASHADHA, 1942

Bail Appl..No.3812 OF 2020

CRIME NO.985/2020 OF Ollur Police Station , Thrissur

PETITIONER:

SARATH T.S.,  
AGED 30 YEARS  
S/O.SAMUEL, THUNDIYIL (H) , CHENNAIPARA,  
MANNAMANGALAM VILLAGE, OLLUR,  
THRISSUR-680306.

BY ADV. SHRI.GAJENDRA SINGH RAJPUROHIT

RESPONDENT:

- 1 STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM-682031.
- 2 STATION HOUSE OFFICER,  
OLLUR POLICE STATION, THRISSUR-680306.

SRI T. R RENJITH PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
30.06.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

### **ORDER**

The application for pre-arrest bail is preferred by the accused in Crime No.985 of 2020 of the Ollur Police Station, Thrissur, which crime is seen registered under Sections 354,376(2)(n) and 506 of the Indian Penal Code.

2. This application is taken up and heard through Videoconferencing.

3. In her complaint lodged before the police, the de facto complainant states that she is a married woman and the mother of two children. The petitioner is a close friend of her husband and is residing closeby. She claims that she has close acquaintance with the wife of the petitioner as well. The petitioner is alleged to have taken a fancy towards the lady and started sending discreet messages to her. He is alleged to have told her that he was in possession of some explicit pictures of the lady and wanted her to share his bed if she did not want him to publish the same. Sometime in the month of September 2019, she was asked to come to the garden land near to

her house. She was taken underneath a nutmeg tree and she was allegedly forced to surrender her body to him. They are alleged to have had sexual intercourse that day. On yet another occasion they had sex inside the bathroom outside her house and on 13.4.2020 underneath the nutmeg tree. Her husband had occasion to see some of the messages sent by the petitioner. She then divulged to her husband about the threat made by the petitioner and the incidents which occurred thereafter. Her husband warned the petitioner and settled the entire issue once and for all. However, the petitioner started harassing the informant yet again, This led her to approach the police and set the law in motion.

4. Sri Rajpurohit, the learned counsel appearing for the petitioner submitted that the petitioner is innocent. According to the learned counsel, no incident of the nature alleged had taken place between the petitioner and the de facto complainant. He contended that de facto complainant was affectionate towards the petitioner and this fact was noticed by her husband Sri Subhash. This led to rivalry between the parties. On 8.5.2020, Subhash and his brother Suni, entered the house of the petitioner and assaulted him and his parents. Reliance is placed on Annexure A2 to A4, O.P. tickets to bring home his point that they had sustained injuries. Much later crime No.984/2020

was registered at the Ollur Police Station by diluting the allegations. It is after the registration of the above crime that the instant crime was registered against the petitioner, submits the learned counsel. According to the learned counsel , the de facto complainant has stated in so many words in her complaint that she never had any occasion to see the pictures which were allegedly in the possession of the petitioner. All these allegations have been cooked up to safeguard the interest of her husband and to protect him, submits the learned counsel. The belated lodging of the complaint is also highlighted by the learned counsel to bolster his contention that the allegations are without basis.

5. The learned Public Prosecutor has opposed the prayer. It is submitted that there is no valid reason to doubt the version of the de facto complainant at this stage.

6. I have considered the submissions advanced and have gone through the case diary.

7. After carefully going through the prosecution records, prima facie, it appears that it is beset with discrepancies. A detailed probe into the allegations is not warranted at this stage. It is by now

settled that while considering the prayer for anticipatory bail, a balance has to be struck and it shall be ensured that no prejudice be caused to a free, fair and effective investigation and it has also to be ensured that harassment, humiliation and unjustified detention of the accused are avoided. It is not reported that the petitioner is involved in any other crimes. There is no case for the prosecution that the petitioner would make himself scarce or that it would be difficult to secure his presence either at the stage of investigation or at the stage of the trial. Having regard to the nature of accusations, the role assigned to the petitioner, I am of the considered opinion that the custodial interrogation of the petitioner is not necessary for an effective investigation in the instant case.

In the result, this application will stand allowed. The petitioner shall appear before the Investigating Officer within ten days from today and shall undergo interrogation. Thereafter, if he is proposed to be arrested, he shall be released on bail on his executing a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum. The above order shall be subject to the following conditions:

- i)The petitioner shall permit himself to be examined by a Medical

Officer as required under Section 53A of the Cr.P.C and shall undergo such other tests including potency test as and when directed to do so.

ii) The petitioner shall cooperate with the investigation and shall appear before the Investigating Officer on all Saturdays between 9 a.m. and 11 a.m., for two months or till the final report is filed, whichever is earlier.

iii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the court or to any police officer.

iv) He shall not commit any similar offence while on bail.

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.

sd/-

**RAJA VIJAYARAGHAVAN V**

**JUDGE**