



B.A.No.10796/2023

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IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 22<sup>nd</sup> DAY OF DECEMBER 2023 / 1ST POU SHA, 1945

BAIL APPL. NO. 10796 OF 2023

CRIME NO.754/2023 OF CHOTTANIKKARA POLICE STATION,  
Ernakulam

**PETITIONER:**

P.G. MANU,  
AGED 53 YEARS  
S/O. GOPALAN, PADMALAYAM, MAMALASSERY, NEAR  
PIRAVOM, ERNAKULAM, PIN - 686663

BY ADVS.  
C.P.UDAYABHANU  
P.VIJAYA BHANU (SR.)  
NAVANEETH.N.NATH  
RASSAL JANARDHANAN A.  
ABHISHEK M. KUNNATHU  
BOBAN PALAT  
P.U.PRATHEESH KUMAR  
P.R.AJAY  
K.U.SWAPNIL  
NIKITA J. MENDEZ  
SRUTHY N. BHAT

**RESPONDENTS:**

- 1 STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF  
KERALA, ERNAKULAM, PIN - 682031
- 2 SUB INSPECTOR OF POLICE,  
CHOTTANIKKARA POLICE STATION, ERNAKULAM, PIN -  
682312
- 3 XXXXXXXXXXXX  
XXXXXXXXXXXX XXXXXXXXXXXX  
  
BY ADVS.  
V.JOHN SEBASTIAN RALPH- R3  
SRI. GRACIOUS KURIAKOSE -ADDL.DIRECTOR GENERAL  
OF PROSECUTIONS  
SRI. C.K. SURESH (SENIOR PUBLIC PROSECUTOR)  
VISHNU CHANDRAN  
RALPH RETI JOHN  
APPU BABU



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GIRIDHAR KRISHNA KUMAR  
VISHNUMAYA M.B.  
GEETHU T.A.  
APOORVA RAMKUMAR  
PADMA LAKSHMI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION AND  
HAVING BEEN FINALLY HEARD ON 19.12.2023, THE COURT ON  
22.12.2023 DELIVERED THE FOLLOWING:

**ORDER**

This application for anticipatory bail is preferred by the accused in Crime No.754/2023 of Chottanikkara Police Station, Ernakulam District. The crime has been registered alleging the commission of offences under Sections 450, 354, 376(1), 376 (2) (b), 376 (2) (n) and 506(1) of the Indian Penal Code and Sections 66(E) & 67 A of Information Technology Act, 2000.

2. The allegations against the petitioner are as follows:-  
The petitioner is a Government Law Officer (Senior Government Pleader) in the High Court of Kerala. The victim in the case had approached the petitioner/accused seeking his professional help in concluding an earlier case registered at the instance of the very same victim at the Chottanikkara Police Station as Crime No.220/2018, which was pending as C.P.No.4/2023 on the file of the Judicial First Class Magistrate Court, Chottanikkara (Temporary). The petitioner/accused had arranged for an Advocate to file Crl.M.C.No.9843/2023 before this Court seeking to quash the proceedings in Crime No.220/2018 on the ground that the entire issue had been settled between the victim and the accused in that case. It is alleged that the petitioner/accused threatened the victim



by stating that she and her father would be arrayed as accused in the case for filing a false complaint; and the petitioner/accused sexually assaulted her on several occasions and committed rape on her on two occasions and thereby he committed the offences alleged against him. It is also alleged that the petitioner/accused had managed to obtain nude photographs of the victim and had also transmitted the same to others. It is further alleged that the petitioner/accused had sent obscene videos and pictures to the victim.

3. Sri. P. Vijayabhanu, the learned Senior Counsel appearing for the petitioner/accused on the instructions of Sri. C.P. Udayabhanu would submit that the petitioner/accused is absolutely innocent in the matter. It is submitted that a false case has been registered against the petitioner/accused on account of certain professional rivalries. It is submitted that the conduct of the victim and certain others who are purportedly helping her makes it evident that the filing of the complaint and the registration of the crime are only intended to spoil the career of the petitioner/accused. It is submitted that the petitioner/accused has been a Public Prosecutor for about 18 years and has been the Prosecutor/Special Public Prosecutor in various sensational cases. It is submitted that the petitioner/accused has successfully prosecuted several of these



cases giving rise to intense professional rivalry and enmity. It is submitted that the petitioner/accused has already been forced to resign from the post of Senior Government Pleader on account of the registration of a false case against him. It is submitted that the wife of the petitioner is a Bank Officer, and both his children are students. It is submitted that, owing to the registration of a false case, the family of the petitioner/accused, consisting of his wife and two children, are unable to face the public. It is submitted that the petitioner/accused is mentally very disturbed owing to the registration of a false case against him. It is submitted that if the petitioner/accused is arrested in connection with the above crime, the petitioner/accused even fears for his life and safety as there are several convicts who are serving sentences on account of successful prosecution conducted by the petitioner/accused. It is submitted that the custodial interrogation of the petitioner/accused is not necessary in the facts and circumstances of this case. The learned senior counsel placed considerable reliance on the judgment of the Supreme Court in ***Bhadresh Bipinbhai Sheth v. State of Gujarat and another; (2016) 1 SCC 152***, which was followed by this Court in ***Johnson M.J. v. State of Kerala; 2023 (6) KLT 29*** to contend that when the co-operation of the petitioner/accused



can be ensured with the investigation, there is no reason to deny anticipatory bail to the petitioner/accused. It is submitted that the decision of the Supreme Court in ***Bhadresh Bipinbhai Sheth (supra)*** is authority for the proposition that there is no rule that the anticipatory bail cannot be granted merely because allegations of commission of heinous offences such as rape are raised against the accused. It is submitted that the petitioner/accused is not a flight risk and is ready to abide by any condition that this Court may impose if he is granted bail.

4. Sri. Gracious Kuriakose, the learned Senior Counsel and the Additional Director General of Prosecutions, appears for the State on instructions from Sri. C.K. Suresh, Senior Public Prosecutor. He would submit that the petitioner/accused is not entitled to bail. He submits that, on the initial occasion itself (9.10.2023), when the victim had approached the petitioner/accused seeking his professional help in connection with Crime No.220/2018 of Chottanikkara Police Station, the petitioner/accused had sexually molested her. It is submitted that, thereafter, on 11.10.2023, when the victim had again visited his office, the petitioner/accused had requested her father, who was accompanying her, to remain outside and had committed rape on her after locking the office door. It is



alleged that he had taken photographs of the victim and sent obscene videos to the victim's phone and threatened her that her earlier case would be settled only if she co-operates with him and succumbs to his demand for sexual favours, or otherwise, the victim and her father would become accused in the case for having given a false complaint. It is submitted that, thereafter, on 24.10.2023, at about 3 P.M., the petitioner/accused trespassed into the house of the victim at Ambadimala near Chottanikkara when there was no one else at the house and committed rape on her in the bedroom of the house. It is submitted that there are clear allegations against the petitioner/accused in the First Information Statement recorded from the victim as well as in the statement recorded from the victim under Section 164 Cr.P.C. It is submitted that the investigation of the case was entrusted to the Deputy Superintendent of Police, Puthencruz, through an order dated 30.11.2023 of the District Police Chief, Ernakulam Rural. It is submitted that, after the aforesaid officer took over the investigation, it was revealed from the tower location of the mobile phones of the petitioner/accused, the victim and her father that all three phones were active on 9.10.2023 at Kadavanthra where the office of the petitioner/accused is situated. It is submitted that on 11.10.2023, the tower location of all these



phones indicates that all three phones were active at Kadavanthra, where the office of the petitioner/accused is situated. It is submitted that the tower details of the mobile phone belonging to the petitioner/accused show that, on 24.10.2023 between 2 p.m. and 4 p.m., the petitioner/accused was at Chottanikkara, where the house of the victim is situated. It is submitted that these details, therefore, indicate that the statement given by the victim that she had first met the petitioner/accused on 9.10.2023 at his office at Kadavanthra on which date she was allegedly sexually abused and thereafter, on 11.10.2023, when allegedly she was raped inside the office of the petitioner/accused and on 24.10.2023 when she was allegedly raped at her house at Chottanikkara are *prima facie* acceptable as the tower location indicates that the petitioner/accused and the victim were at the same place on the relevant dates and at the relevant time. It is submitted that a statement has been recorded from one Aneesh, who is the driver of the car belonging to the petitioner/accused, which reveals that on 24.10.2023, they started their journey from Piravom to Chottanikkara and initially, they went to an apartment in Thiruvankulam belonging to the petitioner/accused. Thereafter, according to the statement, the petitioner/accused told Aneesh that he had to meet a relative and





directed him to drop him near the house of the victim at about 2.30 p.m. on the same day and the aforesaid Aneesh had dropped the petitioner/accused near the house of the victim at 2.30 p.m., and he was directed to wait at Chottanikkara, till the petitioner/accused calls him. It is submitted that going by the statement, the aforesaid Aneesh was asked to pick up the petitioner/accused after about an hour, and he picked up the petitioner/accused from near the house of the victim at about 4 p.m., and they returned to Piravom. It is submitted that, after analysing the call details and tower location of the mobile phone used by the aforesaid Aneesh and the petitioner/accused on 24.10.2023, it was undoubtedly proved that the statements made by the aforesaid Aneesh are substantially correct. It is submitted that on 29.11.2023 in the morning, the petitioner/accused had called the victim from his mobile phone, and the call was initially attended by the brother of the victim, and thereafter the conversation continued with the mother of the victim. It is submitted that the entire conversation was recorded by the victim's brother and mother, and the conversation clearly reveals that the petitioner/accused is practically admitting that he had committed the offences alleged against him. It is submitted that the voice of the petitioner/accused has been identified by a witness who



is well-known to the petitioner/accused. It is submitted that the victim had to be admitted to the Lourdes Hospital, Ernakulam, for psychiatric evaluation and treatment due to the torture and mental trauma caused on account of the abuse by the petitioner/accused. It is submitted that the details of the chats between the petitioner/accused and the victim have been recovered, and the same clearly shows how the petitioner/accused had approached the victim and how he had induced the victim by misusing his position as a lawyer and as a Government Law Officer. It is submitted that the mother of the victim had contacted one Mr. Rajesh, who was working as the Asst. Sub Inspector of Police at Chottanikara Police Station in 2018, at a time when Crime No.220/2018 was registered at the instance of the very same victim. It is submitted that, as per the statement recorded from Sri. Rajesh, the mother of the victim, had called him in the 1<sup>st</sup> week of October 2023 and informed him that the family of the victim had decided not to proceed with the prosecution of Crime No.220/2018 and sought advice from him as to what is to be done to terminate the proceedings. It is submitted that going by the statement, Rajesh had advised them to approach the High Court and had referred them to the petitioner/accused in this case. It appears that, on 24.11.2023, the mother of the victim



had called the aforesaid Rajesh again, stating that certain police officers had contacted them for recording statement in connection with CrI.M.C.No.9843/2023 (petition filed under Section 482 Cr.P.C. to quash the proceedings in Crime No.220/2018 of Chottanikkara Police Station). The learned Addl. Director General of Prosecutions has also placed reliance on the judgment of the Supreme Court in **xxxxx v. Arun Kumar C.K. & Anr; 2022 SCC OnLine SC 1529** to contend that the need for custodial interrogation cannot alone be the basis for determining an application for anticipatory bail.

5. Sri. John Sebastian Ralph, the learned counsel appearing for the victim, would support the contentions of the learned Additional Director General of Prosecutions. Additionally, he has extensively referred to the transcript of the conversation between the petitioner/accused and the mother of the victim which has been placed on record as Annexure-R3(2) along with the objections filed by the 3<sup>rd</sup> respondent to contend that this is a case where the petitioner/accused had taken advantage of the unfortunate situation in which the victim was placed and had sexually abused her and committed rape on her after threatening her that if the earlier case was not carefully handled, the victim and her father might be made



accused in the said case. It is submitted that the record of the conversation between the petitioner/accused and the mother of the victim also indicates that the petitioner/accused was clearly misusing his official position. It is submitted that the victim had succumbed to the demands of the petitioner/accused only out of fear and threat. It is submitted that the petitioner had not only committed rape on the victim, but he had also done so in a beastly manner and had caused injuries to the private parts of the victim. It is submitted that the injuries were, however, not noted by the Doctor who examined the victim. It is suggested that this may be on account of the influence of the petitioner/accused. It is submitted that the suggestion that a false case has been registered on account of professional rivalry is absolutely untrue, as can be seen from the facts of the case itself and the transcript of the conversation between the petitioner and the brother and mother of the victim. It is submitted that there is no reason for the victim to give a false complaint against the petitioner/accused. It is submitted that in the totality of the facts and circumstances of the case, this is not a matter where the petitioner/accused is entitled to anticipatory bail. Reference is made to the provisions of Section 90 I.P.C & to the definition of injury under Section 44 I.P.C to contend that the facts



of the case show that this is not a case where the victim gave her consent for sexual relationship.

6. Having heard the learned Senior Counsel appearing for the petitioner, the learned Additional Director General of Prosecutions and the learned counsel appearing for the additional 3<sup>rd</sup> respondent/victim, I am of the view that the petitioner/accused has not made out a case for grant of anticipatory bail. The argument that if there is absolutely no need for custodial interrogation and if the cooperation of the petitioner/accused can be secured by imposing suitable conditions, there is no need to deny anticipatory bail appears compelling; However, the said factor alone cannot be a ground to hold that the petitioner/accused can be granted anticipatory bail. The heinousness of the offence and the severity of punishment etc. are also factors to be kept in mind, going by the judgment of the Supreme Court in ***Arun Kumar C.K.& Anr.*** (***supra***) where it was held:-

*“16. We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed*



*by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”*

The learned Senior Counsel appearing for the petitioner/accused had raised a contention that the aforesaid decision of the Supreme Court in ***Arun Kumar C.K.& Anr. (supra)*** actually runs counter to the judgment of the Constitution Bench of the Supreme Court in ***Sushila Aggarwal & others v. State (NCT of Delhi and***



**another); (2020) 5 SCC 1.** I have, therefore, perused the judgment of the Constitution Bench of the Supreme Court in **Sushila Aggarwal & others(supra).** After having read the judgment of the Supreme Court in **Sushila Aggarwal & others (supra),** I am unable to agree with the contention of the learned Senior Counsel appearing for the petitioner/accused that the need for custodial interrogation alone can be the basis for deciding an application for anticipatory bail. In **Sushila Aggarwal & others (supra),** it was held:-

*“75. For the above reasons, the answer to the first question in the reference made to this Bench is that there is no offence, per se, which stands excluded from the purview of Section 438, except the offences mentioned in Section 438(4). In other words, anticipatory bail can be granted, having regard to all the circumstances, in respect of all offences. At the same time, if there are indications in any special law or statute, which exclude relief under Section 438(1) they would have to be duly considered. Also, whether anticipatory bail should be granted, in the given facts and circumstances of any case, where the allegations relating to the commission of offences of a serious nature, with certain special conditions, is a matter of discretion to be exercised, having regard to the nature of the offences, the facts shown, the background of the applicant, the likelihood of his fleeing justice (or not fleeing justice), likelihood of cooperation or non-cooperation with the investigating agency or police, etc. There can be no inflexible time-frame for which an*



*order of anticipatory bail can continue.”*

It is clear from the above that, ultimately, the grant or refusal of anticipatory bail is a matter of discretion. I have perused the case diary. While there are certain materials which may tend to suggest that any relationship between the petitioner/accused and the victim was consensual, I cannot lose sight of the fact that, according to the prosecution and also according to the victim, the victim was compelled to succumb only on account of fear and the threat held out by the petitioner/accused that the victim and her father might be prosecuted for filing a false complaint which led to registration of Crime No.220/2018 of Chottanikkara Police Station. That apart, even the materials which suggest that the relationship between the petitioner/accused and the victim might have been consensual also indicate that the petitioner/accused might have been misusing his official position. The statements recorded from the Doctors/Psychologists who have treated the victim also tend to indicate that the victim is of a very vulnerable nature and is a person who gets very scared and succumbs easily to threats and coercions. There are indications/suggestions that the petitioner/accused had, while indulging in sexual relationship with the victim caused injuries to her private parts. However, there is no medical record to prove





this. There are materials to suggest that the victim was in severe depression after the incident. These facts cumulatively suggest to me that the petitioner/accused cannot be granted anticipatory bail as any consent for sexual relationship might be vitiated out of '*fear of injury*' [See Sections 90 and 44 of the I.P.C]. Therefore this application for anticipatory bail is dismissed.

However, I am inclined to direct that if the petitioner/accused surrenders before the investigating officer in Crime No.754/2023 of Chottanikkara Police Station within a period of ten days from today and if the arrest of the petitioner/accused is recorded, he shall be produced before the jurisdictional Magistrate on the same day and the jurisdictional Magistrate shall consider any bail application filed by him without undue delay and untrammelled by any observations made in this order.

sd/-

**GOPINATH P.  
JUDGE**

acd