

(2021) 08 KL CK 0123
In the High Court Of Kerala
Case No : Bail Appl. No. 5857 Of 2021

Maresh	Vs	APPELLANT
State Of Kerala		RESPONDENT

Date of Decision : 13-08-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 376(2)(n), 370

Citation : (2021) 08 KL CK 0123

Hon'ble Judges : Shircy V, J

Bench : Single Bench

Advocate : K.Rakesh, C.N.Prabhakaran

Final Decision : Dismissed

Judgement

Shircy V, J

1. Application for regular bail.

2. The petitioner in B.A.No.6075 of 2021 is the first accused in Crime No.361 of 2021 of Thrithala Police Station and the petitioner in B.A.No.5857 of

2021 is the second accused in the said crime registered for the offences punishable under Sections 376(2)(n) and 370 r/w Section 34 of the Indian Penal Code.

3. The prosecution case is that on 14.12.2019 the first accused had taken the defacto complainant to a tourist home at Guruvayoor and committed

rape on her and later on 24.06.2021 also they together went to a lodge at Angamaly and he had committed rape on her. The defacto complainant has

accompanied the petitioner believing the false promise given by him that he would marry her on a subsequent date. The second accused has dropped

the defacto complainant at the residence of the first accused and thus aided him

and helped him to commit rape upon the defacto complainant.

Thereby they have together committed the aforesaid offences.

4. The petitioners have been in custody since 23.07.2021.

5. Heard the learned counsel for the petitioners as well the learned Public Prosecutor.

6. According to the learned counsel for the petitioners the defacto complainant and the first accused are in love and they have decided to get married

soon. Her parents have also agreed for the same. But due to some misunderstanding she had preferred this complaint and thus he has been falsely

implicated in the case. But now the entire disputes between the parties have been settled and both families agreed for the marriage and they have

decided to marry immediately after his release on bail. It is also pointed out by the learned counsel for the petitioners that in fact there is no specific

allegation against the second accused. But still he is also undergoing incarceration.

7. The learned Public Prosecutor has submitted that the investigation is practically over and the prosecution could be able to submit the final

report without further delay.

Having regard to the nature of the accusation levelled against these petitioners/accused and the other facts and circumstances involved in this case, I

think that further detention of these petitioners in judicial custody may not be necessary for the investigating agency to submit the final report as the

investigation is practically over. Hence, I am inclined to release them on bail subject to the following conditions :-

(i) The petitioners shall be released on bail on his executing a bond for a sum of Rs.1,00,000/-(Rupees one lakh only) each with two solvent sureties for the like sum

each to the satisfaction of the court having jurisdiction.

(ii) They shall also appear before Investigating Officer for interrogation as and when required by him, in writing.

(iii) The petitioners 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 from disclosing such facts to the court or to any police officer or tamper with the evidence.

v) The petitioners shall not commit any offence while on bail.

In case of violation of any of the above conditions, the learned Magistrate is empowered to cancel the bail in accordance with the law.