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**(2021) 04 KL CK 0133**

**In the High Court Of Kerala**

**Case No : Bail Application No. 1733 Of 2021**

Rajesh G And Ors

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

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**Date of Decision :** 20-04-2021

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 438  
Indian Penal Code, 1860 — Section 498(A)

**Citation :** (2021) 04 KL CK 0133

**Hon'ble Judges :** K. Babu, J

**Bench :** Single Bench

**Advocate :** Rahul Sasi, E.C. Bineesh

**Final Decision :** Allowed

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## **Judgement**

1. This application is filed under Section 438 of the Code of Criminal Procedure.
2. The petitioners are the accused Nos.1 to 4 in Crime No.32 of 2021 of Kongad Police Station, Palakkad. The offences alleged against the petitioners are punishable under Section 498 A of IPC. The petitioner No.1 is the husband of the defacto complainant. The 2nd and 3rd petitioners are the father and mother respectively of petitioner No.1. The 4th petitioner is the sister of petitioner No.1.
3. The prosecution case: The marriage between petitioner No.1 and the defacto complainant was solemnized on 28.4.2018. Subsequent to the marriage the parties resided together in the matrimonial home. While living together the petitioners mentally and physically harassed the defacto complainant demanding more dowry.
4. Heard the learned counsel for the petitioners and the learned Public Prosecutor.
5. The leaned counsel for the petitioners submitted that the allegations levelled against the petitioners are false. It is further submitted that the custodial interrogation of the petitioners is not required.

6. The learned Public Prosecutor submitted that the prosecution has no serious objections in granting pre-arrest bail to the petitioners.

7. I have gone through the materials placed before this court. The materials available show that the custodial interrogation, of the petitioners, is not warranted.

8. The materials available lead me to conclude that there is some doubt as to the mens rea of the petitioners in the commission of the alleged acts. There is no possibility of the petitioners to flee from justice. Considering the entire circumstances, I am of the view that the petitioners could establish a prima facie case for getting the benefits contemplated in Section 438 of the Code of Criminal Procedure.

In the result, this Bail Application is allowed as follows :

(i) The petitioners shall appear before the Investigating Officer on 30.4.2021 for interrogation.

(ii) The Investigating Officer is directed to release the petitioners, on bail, in the event of their arrest, on their executing bond for Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties each for the like sum.

(iii) The petitioners shall appear before the Investigating Officer as and when required.

(iv) The petitioners shall not interfere with the process of investigation. They shall not influence the witnesses in this case.

(v) If any of the above conditions are violated by the petitioners, the jurisdictional Court will be at liberty to cancel the bail in accordance with law.