



2025:KER:70916

Crl.M.C No.5551/2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

WEDNESDAY, THE 24TH DAY OF SEPTEMBER 2025 / 2ND ASWINA, 1947

CRL.MC NO. 5551 OF 2025

CRIME NO.529/2025 OF ERNAKULAM CENTRAL POLICE STATION,

ERNAKULAM

ORDER DATED 17.05.2025 IN CRMC NO.1115 OF 2025 OF I
ADDITIONAL DISTRICT COURT, ERNAKULAM

PETITIONER/DE FACTO COMPLAINANT:

XXX

XXX

BY ADVS.

SHRI.RAGHUL SUDHEESH

SMT.J.LAKSHMI

SHRI.UNNIKRISHNAN S. THANDAYAAN

SMT.AMBILY T. VENU

SMT.UMADEVI M.

RESPONDENT/STATE & ACCUSED:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031

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BY ADVS.

SRI.S.RAJEEV

SRI.V.VINAY

SRI.M.S.ANEER

SHRI.SARATH K.P.



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SHRI.ANILKUMAR C.R.
SHRI.K.S.KIRAN KRISHNAN
SMT.DIPA V.
SRI SUDHEER.G, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
24.09.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**ORDER**

Annexure-A3 order of the Additional Sessions Court-I, Ernakulam granting pre-arrest bail to the accused in Crime No.529/2025 of Ernakulam Central Police Station, is under challenge in this petition filed by the survivor/de facto complainant in that case, under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. The prosecution case is that, from July, 2023 onwards, the accused subjected the survivor to rape under the promise of marriage, and coerced her to abortion when she got impregnated due to the above relationship. There is also the allegation that the accused committed theft of the survivor's belongings including title deeds, cheque books, gold ornaments etc. from the residence where both of them were co-habiting, till they parted following the issues related to the alleged illicit relationship of the accused with other ladies.

3. In the present petition, the petitioner would contend that the learned Additional Sessions Judge granted pre-arrest bail to the accused in violation of the settled principles of law in this regard. It is further contended that the learned Additional Sessions Judge arrived at



the wrong finding that the relationship between the accused and the survivor was consensual.

4. Heard the learned counsel for the petitioner, the learned counsel for the second respondent/accused, and the learned Public Prosecutor representing the State of Kerala.

5. The survivor as well as the accused are Advocates, practising at Ernakulam. It is stated that the survivor, who is a divorcee, had acquaintance with the accused, right from the period when both of them were studying at Law College, Ernakulam. The first incident of physical contact between the survivor and the accused is said to have happened in July, 2023, at a hotel room in Munnar, where both of them shared the same bed upon a tour gone in the motorbike of the accused. Thereafter, the accused and the survivor are said to have shared bed at a hotel, and a residence at Ernakulam on many occasions, as a result of which, the survivor became pregnant in the month of January, 2024. Thereupon, the survivor and the accused set in motion the online procedures for the registration of their marriage under the provisions of the Special Marriage Act. While so, the parents of the second respondent/accused are said to have insisted that the situation of the survivor, marrying the accused as a



pregnant lady, has to be avoided, and accordingly, both of them approached a hospital at Muvattupuzha and got the pregnancy aborted. From the month of November, 2024 onwards, the petitioner and the accused started living together as husband and wife, in a rented residence at Ernakulam. It is thereafter that the relationship between the petitioner and the accused ran into rough weather due to the alleged illicit relationship of the accused with another lady. The accused is alleged to have committed theft of the personal belongings of the petitioner in the month of April, 2025, after he parted the co-habitation with the petitioner.

6. It is, by analysing the above peculiar nature of the relationship between the petitioner and the accused, that the learned Additional Sessions Judge observed in the impugned order that it was a clear case of consensual sex from the very beginning. The learned Additional Sessions Judge had also stated in the impugned order that the petitioner and the accused are Advocates and that the present crime is the outcome of the marred relationship between them. It has to be stated here that the observations in the above regard are to be treated as those made solely for the purpose of adjudication of the pre-arrest bail application filed by the accused, and that it should have



no bearing in the further course of the enquiry and trial. Considering the limited scope of the findings in the above regard, which are confined to the pre-arrest bail application filed by the accused, it is not possible to unsettle the order granting pre-arrest bail to the accused.

7. It is true that during the course of arguments, the learned Public Prosecutor submitted that the accused has not been co-operating with the investigation. However, it is pertinent to note that so far the prosecution has not moved any application before the court below for the cancellation of bail upon the above ground. The learned Additional Sessions Judge had granted pre-arrest bail to the accused, subject to strict conditions, to ensure that the investigation would proceed without any fetters. Adequate safeguards were incorporated in the aforesaid bail order for the custodial interrogation and the collection of evidence on the basis of the above procedure. So also, the learned Additional Sessions Judge had imposed appropriate conditions to ensure that the accused would co-operate with the investigation and shall not try to influence or intimidate the witnesses. If the investigating agency has got a complaint that any of the aforesaid conditions have been violated by the accused, they could very well approach the court which granted the pre-arrest bail, for the



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cancellation of the bail granted. At any rate, it is not possible for this Court, in exercise of the powers under Section 528 of the BNSS, to set aside the bail order, since the reasoning of the learned Additional Sessions Judge for granting pre-arrest bail, cannot be said to be erroneous. Accordingly, I find that the present petition is devoid of merit.

In the result, the petition is hereby dismissed.

(sd/-)

G. GIRISH, JUDGE

jsr



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APPENDIX OF CRL.MC 5551/2025

PETITIONER ANNEXURES

Annexure A2	TRUE COPY OF THE RECEIPT DATED 25.01.2024 ACKNOWLEDGING PAYMENT FOR SENDING NOTICE OF INTENDED MARRIAGE UNDER SECTION 5 OF THE SPECIAL MARRIAGE ACT
Annexure A3	CERTIFIED COPY OF THE ORDER DATED 17.05.2025 IN CRL. M.C 1115/2025 ON THE FILES OF THE ADDITIONAL DISTRICT & SESSIONS JUDGE-I (JUDGE, VACATION COURT), ERNAKULAM
Annexure A9	TRUE COPY OF THE BAIL APPLICATION FILED BY THE 2ND RESPONDENT U/S 482 OF THE BHARATIYA NAGARIK SURAKSHA SANHITA DATED 16.04.2025 WHICH IS NUMBERED CRL MC 1115/2025 ON THE FILES OF 1ST ADDITIONAL DISTRICT AND SESSIONS COURT
Annexure A10	TRUE COPY OF THE OBJECTION DATED 25.04.2025 FILED BY THE APPLICANT AGAINST THE BAIL APPLICATION NUMBERED CRL MC 1115/2025 ON THE FILES OF THE 1ST ADDITIONAL DISTRICT AND SESSIONS COURT