



**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS, THIRUVALLA**

**Present: Smt. Arundhathi Dileep, Judicial Magistrate of the First Class**

**Saturday the 17<sup>th</sup> day of January, 2026/ 27<sup>th</sup> day of Pousha 1947 S.E.**

**Bail Application No. 03/2026**

**in**

**State Crime Branch P.S Crime No. 100/2026.**

**Petitioner/Accused :** Rahul Mamkootathil, Aged 36  
S/o Rajendra Kurup  
Attuvilakath House, Mundapalli,  
Parakkootam, Pathanamthitta, Kerala.  
(By Adv. Abhilash Chandran &  
Adv. Sekhar G Thampi)

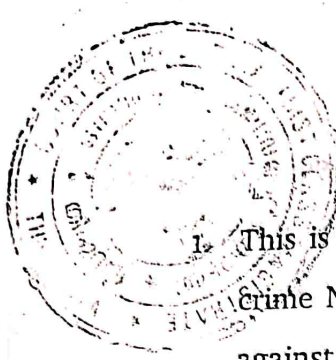
**Counter petitioner/Complainant :** State represented by Deputy Police  
Superintendent, Special Investigation  
Term, State Crime Branch,  
Thiruvananthapuram.  
(Smt. Devi M G, Assistant Public  
Prosecutor, Grade – I, Thiruvalla)

**Offences :** Under sections 376 and 506(i) of the  
Indian Penal Code.

**Order :** *Petition is dismissed.*

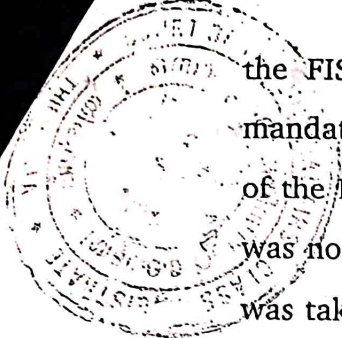
This petition having been finally heard on 16/01/2026, the court on this day delivered  
the following:

ORDER



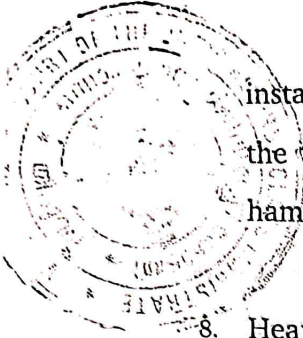
1. This is an application for bail filed by the counsel for the petitioner/accused in Crime No. 100/2026 of State Crime Branch Police Station. The offences alleged against the petitioner is under sections 376 and 506(i) of the Indian Penal Code.

2. The prosecution case is that, the petitioner/accused got acquainted with the victim through social media and on 08/04/2024 at about 1.00 P.M., the petitioner had induced the victim to book a room at 'Club 7 Hotel', Thiruvalla and relax there and the petitioner had entered the room after 15 minutes and straight away committed rape upon her. When the victim had resisted the act of the petitioner, he had beaten and poked on her face. The petitioner had also induced the victim to do oral sex with him. Thereafter, the victim had become pregnant and the petitioner had threatened her stating various reasons. Thus the prosecution alleges that petitioner had committed the aforesaid offences.
3. Petitioner/Accused was arrested and produced before the court on 11/01/2026.
4. Petitioner had filed this application stating he had not committed the offences alleged and was falsely implicated in this case. The petitioner had submitted that the victim had entered into consensual relationship with him and that he was under the impression that she is unmarried. It was also submitted that there is an inordinate delay in lodging the FIR. The petitioner had also filed additional grounds stating that mere registration of an offence under section 376 IPC does not by itself creates reasonable grounds for believing guilt especially when the allegations are inherently improbable, contradicted by contemporaneous material or unsupported by medical or forensic evidence. Also, the victim had not signed



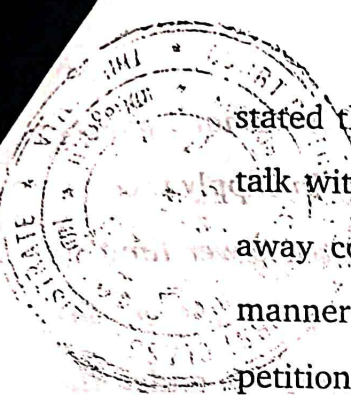
the FIS which was an electronic communication within three days and the mandatory medical examination of the victim as envisaged under section 184(1) of the Bharatiya Nagarik Suraksha Sanhita (hereinafter referred as BNSS), 2023 was not conducted in the instant case. It was also submitted that the petitioner was taken into custody on 11/01/2026 at 12.30 A.M., and the grounds of arrest was not communicated to him forthwith.

5. The learned counsel for the petitioner had also strenuously contended that victim had booked the room at 'Club 7 Hotel', Thiruvalla in her own name and it shows that she had on her own volition travelled to meet the petitioner and it indicates the consensual relationship between the petitioner and the victim.
6. The learned Assistant Public Prosecutor vehemently opposed the bail application and submitted that the petitioner had not co-operated with the investigation and merely because the custodial interrogation of the petitioner was over, it cannot be said that investigation is substantially completed. The learned Assistant Public Prosecutor had also highlighted that the petitioner is a sitting MLA and there is every chance of witnesses being threatened or influenced and evidence being tampered with. It was also pointed out that there is an ongoing cyber attack against the victim in the instant case and if the petitioner is released on bail, the life of the victim would be in danger. Similar antecedents of the petitioner was also brought up by the learned Assistant Public Prosecutor.
7. The report of the investigating officer shows that the investigation of the case is in the preliminary stage. It was also submitted that the petitioner had not co-operated with the investigation. There is also every chance of witnesses being threatened or influenced. There is cyber bullying against the victim in the instant case and also the victims in the other cases registered against the petitioner at the



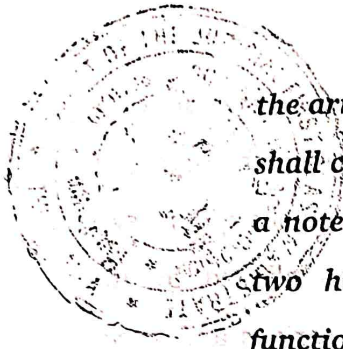
instance of the petitioner and there is every chance of revealing of the identity of the victim. It was further submitted that the release of petitioner on bail will hamper the investigation of the case.

8. Heard both sides. Perused the case records.
  
9. A perusal of the FIS discloses that petitioner had initially approached the victim and established relationship with her by providing solace in her discordant matrimonial life. It was also stated that petitioner had induced her to book the hotel room in her name, when she had specifically told him that a meeting at restaurant is sufficient, by stating that he is a popular figure and that people will recognize him. It was also stated that the petitioner had admonished her for providing his name as 'Rahul BR' in the form provided by the receptionist at the time of availing the room. She was under the impression that they can go out for a talk once the petitioner had arrived. It was specifically alleged that petitioner had entered into the room after 15 minutes when the victim had entered into the room and waited for him there and he had straight away committed rape upon her. He had also beaten her and spat on her face. Thereafter, the petitioner became pregnant but it had culminated in a miscarriage. The petitioner had also threatened her stating various reasons such as marriage of her sister, her husband's family discovering their relationship and probability of a heart attack to her father and had challenged her to take any action against him. She had also stated that she was terrified to lodge the complaint against the petitioner due to cyber attack against the victim in another sexual assault case registered against the petitioner.
  
10. A close scrutiny of the FIS discloses that petitioner had induced the victim to book a hotel room when she had specifically asked for a meeting at a restaurant. It was



stated that after booking the room the victim had thought of going outside for a talk with the petitioner but after entering the room, the petitioner had straight away committed rape upon her. The statement of the victim does not in any manner prima facie indicates a consensual relationship as alleged by the petitioner. The allegations levelled against the petitioner are serious and grave. From the materials on record, I am satisfied that prima facie ingredients of the offence of rape is made out.

11. It is also relevant to note that regarding the argument of the petitioner that victim had booked the room in her own name and the delay in lodging the FIR, reasons are illustrated by the victim for the same in the FIS.
12. The petitioner had also canvassed the argument that victim had not signed the FIS within three days as mandated by section 173(1)(ii) of BNSS. However, the implications of not signing the statement within three days is not provided anywhere in the BNSS. Also, the petitioner had assailed his arrest on the ground that grounds of arrest was not communicated to him forthwith. In this regard recently the Hon'ble Supreme Court in *Mihir Rajesh Shah v. State of Maharashtra*, AIR 2025 SC 5554 held that "*We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of*



the arrestee before the magistrate for remand proceedings. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for magistrate. The above indicated lower limit of two hours minimum interval before the production is grounded in the functional necessity so that the right as provided to an arrestee under the Constitution and the statute is safeguarded effectively. This period would ensure that the counsel has adequate time to scrutinize the basis of arrest and gather relevant material to defend the arrestee proficiently and capably while opposing the remand. Any shorter interval may render such preparation illusory, thereby resulting in non-compliance of the constitutional and statutory mandate. The two hour threshold before production for remand thus strikes a judicious balance between safeguarding the arrestee's constitutional rights under Art.22(1) and preserving the operational continuity of criminal investigations". In the circumstances, I find no force in the aforesaid arguments of the petitioner.

13. In *State of Karnataka v. Sri Darshan*, 2025 Cri L J 3782, it was held that "We are absolutely conscious that liberty of a person should not be lightly dealt with, for deprivation of liberty of a person has immense impact on the mind of a person. Incarceration creates a concavity in the personality of an individual. Sometimes it causes a sense of vacuum. Needless to emphasise, the sacrosanctity of liberty is paramount in a civilised society. However, in a democratic body polity which is wedded to the rule of law an individual is expected to grow within the social restrictions sanctioned by law. The individual liberty is restricted by larger social interest and its deprivation must have due sanction of law. In an orderly society an individual is expected to live with dignity having respect for law and also giving due respect to others' rights. It is a well-accepted principle that the concept of liberty is not

*in the realm of absolutism but is a restricted one. The cry of the collective for justice, its desire for peace and harmony and its necessity for security cannot be allowed to be trivialised. The life of an individual living in a society governed by the rule of law has to be regulated and such regulations which are the source in law subserve the social balance and function as a significant instrument for protection of human rights and security of the collective. This is because, fundamentally, laws are made for their obedience so that every member of the society lives peacefully in a society to achieve his individual as well as social interest. That is why Edmond Burke while discussing about liberty opined, "it is regulated freedom".*


14. The petitioner is a sitting MLA. The allegations levelled against him is serious and grave. Also, the petitioner is having similar antecedents. There is also every chance of witnesses being threatened or influenced, evidence being tampered and investigation being hampered. Therefore this is not a fit case to exercise the discretionary jurisdiction of this Court u/s. 480 of BNSS.
15. *In the result, the petition is dismissed.*

Dictated to the Confidential Asst., typed by her, corrected and pronounced by me in open Court on this the 17<sup>th</sup> day of January, 2026.

Sd/-

Judicial Magistrate of the First Class,  
Thiruvalla

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Judicial Magistrate of the First Class,  
Thiruvalla