



2025:KER:70098

CRL.A Nos.1685 & 1690/2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 17TH DAY OF SEPTEMBER 2025 / 26TH BHADRA, 1947CRL.A NO. 1685 OF 2025

CRIME NO.482/2025 OF MARADU POLICE STATION, Ernakulam

AGAINST THE JUDGMENT DATED 27.08.2025 IN CRL MP NO.1602 OF
2025 OF SPECIAL JUDGE FOR THE TRIAL OF OFFENCES UNDER SC/ST
(POA) ACT,1989, ERNAKULAMAPPELLANT/S:RAHUL M R
AGED 29 YEARS
S/O RAVEENDRAN A K MOOKKATH HOUSE, LANE 2 COL.
VISWANATHAN ROAD, EROOR WEST P O, TRIPUNITHURA,
NADAMA, ERNAKULAM, PIN - 682306BY ADVS.
SRI.S.RAJEEV
SRI.V.VINAY
SRI.M.S.ANEER
SHRI.SARATH K.P.
SHRI.ANILKUMAR C.R.
SHRI.K.S.KIRAN KRISHNAN
SHRI.AZAD SUNIL
SMT.DIPA V.
SHRI.AKASH CHERIAN THOMASRESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM (CRIME NO 482/2025 OF MARADU
POLICE STATION, ERNAKULAM), PIN - 682031
- 2 XXXXXXXXXXXX
XXXXXXXXXXXX XXXXXXXXXXXX



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CRL.A Nos.1685 & 1690/2025

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BY ADVS.
SHRI.GEORGE SEBASTIAN
SRI.DHANESH MATHEW MANJOORAN

OTHER PRESENT:

SRI. RENJIT GEORGE (SR .PP)
SRI. GEORGE SEBASTIAN - FOR R2

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 03.09.2025, AND HAVING BEEN FINALLY HEARD ON 17.09.2025 ALONG WITH CRL.A.1690/2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2025:KER:70098

CRL.A Nos.1685 & 1690/2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 17TH DAY OF SEPTEMBER 2025 / 26TH BHADRA, 1947CRL.A NO. 1690 OF 2025

CRIME NO.482/2025 OF MARADU POLICE STATION, Ernakulam

AGAINST THE ORDER/JUDGMENT DATED 27.08.2025 IN CRL MP NO.1602
OF 2025 OF SPECIAL COURT- OFFENCES UNDER SC/ST (POA)
ACT,1989, ERNAKULAMAPPELLANT/S:RENJITH M R
AGED 37 YEARS
S/O RAVEENDRAN A K MOOKKATH HOUSE, LANE 2 COL.
VISWANATHAN ROAD, EROOR WEST P O, TRIPUNITHURA,
NADAMA, ERNAKULAM, PIN - 682306BY ADVS.
SRI.K.K.DHEERENDRAKRISHNAN
SMT.N.P.ASHARESPONDENT/S:1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 6820312 XXXXX
XXXXXX, PIN - 682038BY ADVS.
SHRI.GEORGE SEBASTIAN
SRI.DHANESH MATHEW MANJOORANOTHER PRESENT:SMT. SEENA C (PP)
SRI. GEORGE SEBASTIAN - FOR R2



2025:KER:70098

CRL.A Nos.1685 & 1690/2025

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THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 03.09.2025 AND HAVING BEEN FINALLY HEARD ON 17.09.2025 ALONG WITH CRL.A.1685/2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**‘C.R’**

JUDGMENT
[CRL.A Nos.1685/2025, 1690/2025]

These appeals have been filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as '*the SC/ST Act*'). Crl.A. No.1685/2025 is filed by the 1st accused in Crime No.482/2025 of Maradu Police Station, Ernakulam District, and Crl.A. No.1690/2025 is filed by the 2nd accused in the same crime. Crime No.482/2025 of Maradu Police Station has been registered alleging commission of offences under Sections 376(2)(n) & 506 of the Indian Penal Code (hereinafter referred to as '*the IPC*') and S.3(2)(v) of the SC/ST Act. By an order dated 27.08.2025 in Crl.M.P 1602/2025 on the file of the Special Judge for Trial of Offences under the SC/ST (POA) Act, 1989, Ernakulam, an application filed by both the accused jointly for anticipatory bail was dismissed by that court. The appellant in Crl.A.No.1685/2025 is hereinafter referred to as the 1st accused, and the appellant in Crl.A. No.1690/2025 is hereinafter referred to as the 2nd accused.

2. The allegations leading to registration of Crime No.482/2025 of Maradu Police Station (in brief) are that the 1st accused in Crl.A.1685/2025 had established a relationship with the *de facto*



complainant/victim after promising to marry her. It is alleged that the 1st accused had initially forced the *de facto* complainant to enter into sexual relationships with him, despite the objection of the *de facto* complainant, and thereafter, continued to maintain his relationship with her. After living with her for some time in a rented house, he withdrew from the promise of marriage and thereby committed the offences alleged against him. The 2nd accused is the brother of the 1st accused. The allegation against him is that he had threatened the *de facto* complainant and had warned her against maintaining a relationship with the 1st accused. It is alleged that the 2nd accused had threatened the *de facto* complainant by stating that he was not causing any harm to her, only because she is the mother of a minor child.

3. Sri. S. Rajeev, the learned counsel appearing for the 1st accused, has taken me through the First Information Statement given by the *de facto* complainant/victim. He submits that even if all the allegations in the First Information Statement are accepted as true, no offence has been committed by the 1st accused. He refers to the recent judgment of this Court in ***Hiran Das Murali v. State of Kerala, 2025 KHC OnLine 943***, to contend that where a relationship which lasted for a long time subsequently breaks down on



account of one reason or the other, the same cannot be a ground to raise an allegation of rape on the false promise of marriage. The learned counsel also submits that the Supreme Court in ***Mahesh Damu Khare v. State of Maharashtra and another, (2024) 11 SCC 398*** (which has been relied on by this Court in ***Hiran Das Murali***), observed that it is a worrying trend that consensual relationships that lasted over a period of time are subsequently characterised as rape. The learned counsel also placed reliance on the judgment of the Supreme Court in ***Jothiragawan v. State, 2025 SCC OnLine SC 628*** to contend that where the alleged victim had willingly engaged in sexual relationships on more than one occasion even if it is alleged that the first instance of sexual intercourse was against her will, the allegation of the accused having committed rape cannot be sustained.

4. Sri. K. K. Dheerendrakrishnan, the learned counsel appearing for the 2nd accused, reiterates the contentions taken by the learned counsel appearing for the 1st accused. He also submits that, insofar as the 2nd accused is concerned, the allegation against him is that he had threatened the *de facto* complainant over the telephone. It is submitted that to force both the accused in this case into some sort of



settlement, the 2nd accused has also been roped in as an accused in this case, and all the allegations against the 2nd accused are false and without any basis. It is submitted that the 2nd accused had no occasion whatsoever to threaten the *de facto* complainant as alleged in the First Information Statement. It is further submitted that the investigation into the case has revealed that the *de facto* complainant had purposefully suppressed the fact that she was earlier married to one Rajesh of Maradu during 2009, and thereafter she married one Sarath, whose name is mentioned as her husband in the First Information Statement. It is submitted that, in the facts and circumstances of this case, the bar against the grant of anticipatory bail under Section 18 of the SC/ST Act will not apply and the appellants are entitled to anticipatory bail.

5. Sri. Renjith George, the learned Senior Public Prosecutor, and Sri. George Sebastian, the learned counsel appearing for the *de facto* complainant, vehemently opposed the prayer for anticipatory bail. It is submitted that, unless this Court were to conclude that, *prima facie*, none of the offences under the SC/ST Act have been committed, the bar against the grant of anticipatory bail in Section 18 of the SC/ST Act will apply, and the appellants are not



entitled to anticipatory bail. It is submitted that a reading of the First Information Statement of the *de facto* complainant will indicate that, though the *de facto* complainant and the 1st accused had lived together for some time, the initial relationship was not consensual and the *de facto* complainant was forced to succumb to the demand for sexual intercourse by the 1st accused in the case. It is submitted that the investigation is only progressing, and if anticipatory bail is granted to the appellants at this stage, the same may not be conducive to the completion of the investigation in a proper manner. It is pointed out that as far as the 2nd accused is concerned, he is also the accused of having committed the offence of criminal intimidation punishable under Section 506 of the IPC. It is submitted that Section 506 of the IPC is also a scheduled offence under the provisions of the SC/ST Act. It is submitted that it was revealed during the course of investigation that the 2nd accused had contacted the *de facto* complainant over the phone on 16.08.2024 and also on 19.08.2024, and that this lends credence to the allegation that the 2nd accused had threatened the *de facto* complainant over the telephone. Sri. George Sebastian, the learned counsel for the *de facto* complainant, refers to the judgment of the Supreme Court in ***Kiran v. Rajkumar Jivraj Jain, 2025 KHC***



OnLine 6765, to contend that where a *prima facie* case has been made out, the bar under Section 18 of the SC/ST Act will apply, and the appellants are not entitled to anticipatory bail.

6. The learned counsel appearing for the 1st accused would submit, in reply, that on 25.07.2025, the mother of the accused in this case had issued a legal notice to the *de facto* complainant, and it is immediately after receiving the said notice that the *de facto* complainant had set criminal law in motion by filing the complaint leading to the registration of Crime No. 482/2025 of Maradu Police Station. The learned counsel appearing for the 2nd accused submits, in reply, that the Investigating Officer had filed a report before the Special Court at the time when the bail application filed by accused Nos. 1 and 2 was pending before the Special Court, and this report indicates that, since there were frequent contacts between the 1st accused and the *de facto* complainant at the relevant time, it could not be ascertained as to whether the 2nd accused had contacted the *de facto* complainant and had threatened her. It is pointed out that the telephone of the 2nd accused was being used by the 1st accused frequently. It is pointed out that the call made on 19.08.2024 allegedly lasted for about 37 minutes, and it is unbelievable that the 2nd accused had talked to the *de facto*



complainant for 37 minutes to threaten her. It is submitted that, even going by the First Information Statement, the said call was at a time when the relationship between the 1st accused and the *de facto* complainant was subsisting, and the call lasting 37 minutes can only be a call made by the 1st accused to the *de facto* complainant at a time when their relationship was subsisting.

7. Having heard the learned counsel appearing for the accused, the learned Public Prosecutor, and the learned counsel appearing for the *de facto* complainant, I am of the view that the appellants have made out a case for the grant of anticipatory bail. The decision of the Supreme Court in ***Mahesh Damu Khare*** (*supra*) and the decision of this Court in ***Hiran Das Murali*** (*supra*) indicate that where a relationship between two individuals lasts for a considerably long period and there is a break-up in the relationship after some time, the same cannot be a ground to allege rape on the false promise of marriage. In the facts of the present case, going by the First Information Statement of the *de facto* complainant, the relationship between the *de facto* complainant and the 1st accused started in the year 2023 and lasted till July 2025. It is also evident from a reading of the First Information Statement that, though the *de facto* complainant



is married to one Sarath and has a child in her relationship with said Sarath, she started living with the 1st accused at a rented house from April 2024. It is the specific statement of the *de facto* complainant that the *de facto* complainant and the 1st accused were living together as husband and wife, though the marriage between the *de facto* complainant and the said Sarath had not yet been dissolved in accordance with the law. It is clear from the First Information Statement that the application for divorce to dissolve the marriage between the *de facto* complainant and the said Sarath is still pending before the Family Court, Ernakulam. This Court in **Anil Kumar v. State of Kerala, 2021 (2) KLT 83**, had considered the question as to whether an allegation of rape on the false promise of marriage could be raised when one of the parties to a relationship was in a subsisting marriage. It was held:-

“10. So from the admitted allegations discernible from the prosecution materials, it can be seen that the 3rd respondent then aged 31 years was already married to another person since May, 2008 and she had a minor son aged 8½ years. Initially she did not know that the petitioner has married and based on his promise that he would marry her, both of them entered into sexual relationship. Later, even after coming to know that the petitioner has married, which information was conveyed to her by none other than the wife of the petitioner, still the petitioner and the 3rd respondent continued to have



sexual relationship. Later, the 3rd respondent moved away from the locality to another place and even thereafter, also both the 3rd respondent and the petitioner have entered into sexual relationship which lasted for a long time and she became pregnant, etc. Therefore, it is admitted case of the prosecution that the 3rd respondent has already married. Hence, it can be seen that the promise alleged to have been made by the accused to a married woman that he would marry her, etc., is a promise, which is not enforceable in law and is seen by public policy and morals and hence, unenforceable in view of the mandatory provisions contained in S.23 of the Indian Contract Act. Such an unenforceable and illegal promise cannot be the basis for the prosecution to contend that the consent of the woman, who has sexual relationship with the accused, was obtained on the basis of misconception of fact, as understood in Explanation No.2 of S.376 of the IPC and S.90 of the IPC. That apart, a reading of the abovesaid materials would make it clear that with wide and open eyes and even after coming to know that the petitioner has already married, the 3rd respondent and the petitioner have entered into a long-standing sexual relationship, even though both of them are married. In the light of all these aspects, it is only to be held that even if it is assumed that the sexual incidents alleged in the prosecution materials are assumed to be broadly true, then it has to be held that such incidents could have happened only on the basis of consent of two full grown adults. As observed hereinabove, in such cases it can be only said that the sexual relationship entered into by two full grown adults, can be only on the basis of promiscuity and passions to have their mutual companionship, which also is inclusive of sexual relationship. Such a scenario cannot be the basis to contend that the vital ingredients



of rape as per S.375 of the IPC are fulfilled and that the accused is to be prosecuted for the said offence. Hence, it is only to be held that the vital ingredients of the offence of rape as per S.375 of the IPC, which is punishable under S.376 of the IPC are conspicuously absent in this case and hence, the continuance of the impugned criminal proceedings is nothing, but a mere wastage of time and precious resources of the judicial organs, the prosecution machinery and the police agency and it amounts to an abuse of the process of the Court. Moreover, the 3rd respondent has now stated that the petitioner has agreed to maintain her and the child born to her in the abovesaid sexual relationship with the petitioner, etc.”

It is clear from the judgment of this Court in **Anil Kumar** (*supra*) that where one of the parties to a relationship is in a subsisting marriage, there cannot be an allegation of rape on the false promise of marriage. Considering all the aforesaid facts, I am *prima facie* convinced that the 1st accused has made out a case that he cannot be accused of having committed an offence punishable under Section 376(2)(n) of the IPC.

8. Coming to the allegations against the 2nd accused, it is seen from a reading of the First Information Statement that the allegation against him is that he had threatened the *de facto* complainant by stating that bodily harm would be caused but for the fact that she was having a child and had called upon her to refrain from having any relationship with the 1st accused in the case. The phone calls on



16.08.2024 and 19.08.2024 lasted for 111 seconds and 2198 seconds (37 minutes) respectively. Therefore, there is some merit in the contention of the learned counsel for the 2nd accused that these calls could not have been made for the purposes of threatening the *de facto* complainant, especially when, even going by the First Information Statement, these calls relate to a period when there was a healthy relationship between the 1st accused and *de facto* complainant. In such circumstances, it is quite possible that the 1st accused was using the telephone of the 2nd accused to talk to the *de facto* complainant. If this is the situation, it is at least doubtful as to whether the alleged offence under Section 506 IPC has been committed by the appellants.

9. Coming to the offences under the provisions of the SC/ST Act, it is to be noted that the offence alleged is under Section 3(2)(v) of the SC/ST Act. Section 3(2)(v) of the SC/ST Act (to it the extent relevant) reads thus:-

“(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(i) xxxxxxxx

(ii)xxxxxxx

(iii)xxxxxxx

(iv)xxxxxxx

(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property knowing



that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;”

I have already held that *prima facie*, the offence under Section 376(2)(n) of the IPC, cannot be said to have been committed by the 1st accused. The maximum term of punishment for the offence under Section 506 IPC is seven years. Therefore, the provisions of Section 3(2)(v) of the SC/ST Act are not attracted. Though Section 506 IPC is a scheduled offence for the purposes of Section 3(2)(va) of the SC/ST Act, the said provision has not been invoked. At any rate, I have also held that *prima facie* no offence under Section 506 is made out. A division bench of this Court has in ***Rajachandrasekharan @ Babu v. State of Kerala, 2024 (2) KLT 656***, taken the view that Section 3(2)(v) of the SC/ST Act is by itself not a substantive offence¹. In ***Shahul Ameer v. State, 2025 KHC 292***, this Court has taken the view that where the court reaches a finding that there was no false promise of marriage, the offence under Section 3(2)(v) of the SC/ST Act may not be attracted. As already indicated, the provisions of Section 3(2)(v) of the SC/ST Act are attracted only when an offence

1. Also see *Narain Trivedi v. State of U.P* 2008 Cri.L.J 1686



punishable with imprisonment for a term of 10 years or more under the IPC has been committed. In other words, in cases where the allegation is that an offence under Section 3(2)(v) of the SC/ST Act has been committed and when this Court *prima facie* concludes that the substantive offence punishable with a term of imprisonment for a period of 10 years or more has not been committed, the said *prima facie* conclusion is sufficient to hold that the bar under Section 18 of the SC/ST Act against the grant of anticipatory bail will not apply. In other words, in the facts of this case, the *prima facie* conclusion that the appellants have not committed any offence under Section 376(2)(n) and Section 506 IPC automatically leads to a conclusion that the appellants have not committed an offence punishable under Section 3(2)(v) of the SC/ST Act.

10. In **Kiran** (*supra*), after referring to **Prathvi Raj Chauhan v. Union of India, (2020) 4 SCC 727**, it was held:-

“6. In light of the parameters in relation to the applicability of Section 18 of the Act emanating from afore-discussed various decisions of this Court, the proposition could be summarised that as the provision of Section 18 of the Scheduled Caste and Scheduled Tribes Act, 1989 with express language excludes the applicability of Section 438, Cr. P.C., it creates a bar against grant of anticipatory bail in absolute terms in relations to the arrest of a person who faces specific



accusations of having committed the offence under the Scheduled Caste and Scheduled Tribe Act. The benefit of anticipatory bail for such an accused is taken off.

6.1. The absolute nature of bar, however, could be read and has to be applied with a rider. In a given case where on the face of it the offence under Section 3 of the Act is found to have not been made out and that the accusations relating to the commission of such offence are devoid of prima facie merits, the Court has a room to exercise the discretion to grant anticipatory bail to the accused under Section 438 of the Code.

6.2. Non-making of prima facie case about the commission of offence is perceived to be such a situation where the Court can arrive at such a conclusion in the first blush itself or by way of the first impression upon very reading of the averments in the FIR. The contents and the allegations in the FIR would be decisive in this regard. Furthermore, in reaching a conclusion as to whether a prima facie offence is made out or not, it would not be permissible for the Court to travel into the evidentiary realm or to consider other materials, nor the Court could advert to conduct a mini trial.”

Taking into consideration the law laid down by the Supreme Court in ***Prathvi Raj Chauhan*** (*supra*), as reiterated in ***Kiran*** (*supra*), I am convinced that the appellants are entitled to anticipatory bail, as for reasons already indicated, they have made out a *prima facie* that they have committed no offence under the provisions of the SC/ST Act.

11. In the light of the above findings, I am inclined to



allow these appeals. Accordingly, these appeals are allowed. The order dated 27.08.2025 in Crl.M.P 1602/2025 on the file of the Special Judge for Trial of Offences under the SC/ST (POA) Act, 1989, Ernakulam will stand set aside. It is directed that the appellants shall be released on bail in the event of their arrest in connection with Crime No.482 of 2025 of Maradu Police Station, subject to the following conditions:-

(i) The appellants shall execute bonds for sums of Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the like sum to the satisfaction of the Arresting Officer;

(ii) The appellants shall appear before the Investigating Officer in Crime No.482 of 2025 of Maradu Police Station at 11.00 A.M on 25.9.2025 and 26.9.2025 and thereafter whenever called upon to do so;

(iii) The appellants shall not attempt to interfere with the investigation, influence or intimidate the *de facto* complainant or any witness in Crime No.482 of 2025 of Maradu Police Station;

(iv) The appellants shall not be involved in any other crime while on bail;

(v) The appellants 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;

12. If any of the aforesaid conditions are violated, the Investigating Officer in Crime No.482 of 2025 of Maradu Police Station, Ernakulam, may apply to the jurisdictional Court for cancellation of bail. It is clarified that the appellants will be deemed to be in custody for the purposes of recovery, etc., even if they are released on anticipatory bail as held by the Supreme Court in ***Sushila Aggarwal and others v. State (NCT of Delhi) and another, (2020) 5 SCC 1***.

No observation in this order shall be deemed a finding by this Court on any issue. The observations contained in this order are solely for the purpose of evaluating the appellants' entitlement to anticipatory bail.

Sd/-

**GOPINATH P.
JUDGE**



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CRL.A Nos.1685 & 1690/2025

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APPENDIX OF CRL NO.1685 OF 2025 & CRL.A 1690/2025APPELLANTS ANNEXURES

Annexure-I	TRUE COPY OF THE FIR AND FIS IN CRIME NO.482/2025 OF MARADU POLICE STATION,ERNAKULAM.
Annexure-II	A TRUE COPY OF THE MEDICAL CERTIFICATE OF THE 1ST ACCUSED DATED 22.07.2025
Annexure-III	THE DISCHARGE SUMMARY OF THE 1ST ACCUSED DATED 26.07.2025
Annexure-IV	TRUE COPY OF THE LAWYER NOTICE DATED 25.07.2025
Annexure-V	TRUE COPY OF THE REPLY TO LEGAL NOTICE DATED 04.08.2025.