IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE

Thiruvananthapuram.

Present: Elsa Catherine George
Additional Chief Judicial Magistrate

Monday the 1st day of December 2025

CMP : 5050/2025
IN
Thiruvananthapuram City Cyber Crime Police Station Crime No. 169/2025

Petitioner / Accused	A5	Rahul K Easwar, 43 years, S/o Easwaran Namboothiri, Yaag, T C 10/881(2), Hill View Residency, Uliyazhthura Desom, Poudikkonam, Thiruvananthapuram (By Adv. Sri. Abhishek Nair M S)
Respondent		State of Kerala represented by the Inspector of Police, Thiruvananthapuram City Cyber Crime Police Station crime No. 169/2025 (By A P P)
offences		U/s 72, 75(1)(iv), 79, 351(1), 351(2) of BNS and section 43 r/w 66 of Information Technology Act.
Order		Bail application is dismissed.

O R D E R

1. This is a bail application filed on behalf of the 5th accused who along with the other accused is alleged to have committed offences u/s 72, 75(1)(iv), 79, 351(1), 351(2) of BNS and section 43 r/w 66 of Information Technology Act.
2. The crux of the allegation in the case is as follows: Accused Nos. 1 to 5 with the intention to defame the complainant and to outrage her modesty in public and also to criminally intimidate her, procured the photographs and particulars of the defacto complainant who is the victim in Nemom Police Station Crime No. 1750/2025 u/s

64(2)(f), 64(2)(h), 64(2)(m), 89, 115(2), 351(3), 3(5) of BNS and section 66E of Information Technology Act through internet and published the same through Facebook and other social media platforms on various dates up to 29/11/2025, in contravention of the law prohibiting the publication of identity of the victim. It is specifically alleged that the 5th accused published the photo and details of the defacto complainant through his Facebook Account and through his Youtube channel thereby disclosing the identity of the victim and also made several vulgar and sexually coloured remarks against her through social media. The accused thus committed the offence as alleged against him.

3. The accused is arrested and produced before this court on 01/12/2025 and at that time the present bail application is filed.

4. Copy of the application was served to the investigating officer through the learned APP who raised serious objection in granting bail to the petitioner / accused No.5.

5. Heard both sides in detail.

6. The only point that arises for consideration is whether the petition is to be allowed.

7. The point : The 1st point argued by the learned counsel for the petitioner / accused No.5 is that the accused was not given any proper notice u/s 35(1) of BNSS. Secondly, the only offence that is non bailable is section 75 (1)(iv) of BNS. The learned counsel for the accused would go to argue that there is no material anywhere in the records produced by the police to show that any 'sexually coloured remarks' were made against the victim. The offence punishable under section 75(1)(iv) is only punishable with imprisonment up to one year and that therefore it is deemed to be bailable. The other argument for the petitioner / accused is that further incarceration

of petitioner / accused is not necessary in the facts and circumstances of the case and that bail may be granted subject to conditions including passing of a gag order or other stringent conditions for deemed custody.

8. In reply, it is pointed out by the learned Assistant Public Prosecutor that sufficient grounds are stated in page 3 of the remand report to show why notice was not given u/s 35(1) of BNSS and that all the requisite procedural formalities are duly complied with. It is submitted that the Youtube videos containing sexually coloured remarks published by the petitioner / accused No.5 are recovered and produced before the court and a separate Mahazar is being prepared and filed. It is further submitted that the custody of the petitioner / accused No.5 is required for the purpose of investigation and that recovery of other electronic devices involved are yet to be made. In case, the accused is released on bail, he is likely to commit similar offences and there is every possibility that he would impede the course of investigation and tamper with evidence in this case. It is also pointed out that the petitioner / accused No.5 has similar criminal antecedents. Therefore, the petition is seriously opposed by the prosecution.

9. I have considered the rival contentions and the materials placed before me. The ingredients of the offence punishable u/s 75(1)(iv) are *primafacie* brought out from the available records. The act of making such remarks on social media platforms against the victim of an offence, for which a case is registered and investigation is ongoing, cannot be viewed lightly. Moreover, investigation in the case has just started. In case, the accused is released on bail, he is likely to impede the course of investigation. There is every possibility of committing similar offences and

tampering with available digital and other evidence involved. The other accused involved are yet to be arrested. In the above circumstances, considering the nature and gravity of the alleged offences and the stage of investigation, I find that the petitioner / accused No.5 is not to be enlarged on bail at this stage.

In the result, the petition is dismissed.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court this the 1st day of December 2025.

Elsa Catherine George,
Additional Chief Judicial Magistrate,
Thiruvananthapuram.