

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

Bail Appl..No. 84 of 2015

**CRIME NO. 1034/2014 OF KANJIRAMKULAM POLICE STATION ,
THIRUVANANTHAPURAM DISTRICT**

PETITIONER(S)/ACCUSED (A1, A2 & A4) :

- * 1. SREEJITH, AGED 27 YEARS,
S/O.KRISHNANKUTTY, KAVUVILA VEEDU, KOTTUKAL VILLAGE,
KOTTUKAL DESOM.(CORRECTED)

* THE NAME OF THE 1ST PETITIONER IS CORRECTED AS ' SAJITH ' AS PER ORDER
DATED 16.02.2015 IN CRL.M.A.NO.1186 OF 2015.

2. SREEJITH, AGED 24 YEARS,
S/O.CHANDRAN, CHIRALATHALA VILAKATHU VEEDU,
PAYATTUVILA P.O.
3. RAJAN, AGED 37 YEARS,
S/O.CHELLAPPAN, PERUMTHANNIPUTHEN VEEDU,
KANJIRAMKULAM VILLAGE, KANJIRAMKULAM DESOM.

BY ADV. SRI.R.T.PRADEEP

RESPONDENT(S) :

**THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 16-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

B.KEMAL PASHA, J.

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B.A. No.84 of 2015

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Dated this the 16th day of February, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are A1 to A3 in Crime No.1034 of 2014 of the Kanjiramkulam Police Station, registered for the offences punishable under Sections 326, 324, 323 and 308 read with Section 34 of the Indian Penal Code.

3. The allegation against the petitioners is that on 01.12.2014, at 6.30 p.m., they came by a motorbike and got down near the defacto complainant and thereafter the 1st petitioner inflicted a blow aimed at the head of the defacto complainant with an iron rod. The same was warded off by the defacto complainant with his left hand thereby he suffered a fracture of his left ulna. It is alleged that the defacto complainant fell down and then petitioners 2 and 3 stamped and fisted the defacto complainant.

4. Heard learned counsel for the petitioners and the learned Public Prosecutor.

5. The contents of the CD *prima facie* reveal the

complicity of the petitioners. At the same time, there is no allegation that petitioners 2 and 3 have made use of any weapon. The injury, which has resulted in the fracture of the left ulna of the defacto complainant, was allegedly caused by the 1st petitioner by beating with an iron rod. It is been pointed out that the said iron rod has not yet been recovered. The custodial interrogation of the 1st petitioner is required for the continued investigation of this case. At the same time, in the absence of any criminal antecedents on the part of petitioners 2 and 3 and their lesser role in the incident, I am of the view that this is a fit case wherein anticipatory bail can be granted to petitioners 2 and 3. Considering the seriousness of the allegations against the 1st petitioner, I do not think that this is a fit case wherein the discretionary relief of anticipatory bail can be granted to the 1st petitioner.

In the result, this bail application is allowed in part and the investigating officer or such other police officer, who is conducting the arrest of petitioners 2 and 3, is directed to enlarge petitioners 2 and 3 on bail in the event of their arrest

on each of them executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties for the like sum each to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) Petitioners 2 and 3 shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Mondays and Thursdays commencing from 23.02.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) Petitioners 2 and 3 shall not tamper with the evidence or influence witnesses.

(iii) Petitioners 2 and 3 shall make themselves available for interrogation as and when required by the investigating officer.

(iv) Petitioners 2 and 3 shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

At the same time, the learned counsel for the petitioners seeks for an opportunity to the 1st petitioner to surrender before the investigating officer and to co-operate with the investigation. This bail application, as far as the 1st petitioner is concerned, is dismissed. At the same time, if so advised, the 1st petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the 1st petitioner, effect recovery if any, and conduct the investigation and produce the 1st petitioner without delay before the court below, where the 1st petitioner can move for bail. In such case, the learned Magistrate shall pass appropriate orders, preferably on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/16/2/15

// True Copy //

P.A. To Judge

