

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

Bail Appl..No. 104 of 2015

CRIME NO. 688/2014 OF MARAYAMUTTAM POLICE STATION, THIRUVANANDAPURAM.
.....

PETITIONER(S)/ACCUSED NO. 1 & 2:

- 1. DANIMON S, AGED 26 YEARS,
S/O.STANLY, DANI BHAVAN, NULAKKONAM,
CHAMAVILA, MANCHAVILAKOM P.O.,
THIRUVANANTHAPURAM.**
- 2. SHINE SHAM N.V., AGED 24 YEARS,
S/O.NELSON, POOVATHOORKONAM,
MEKKUMKARA MELE VEEDU,
MANCHAVILAKOM P.O.,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.T.M.BINOY**

RESPONDENT(S)/STATE/COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031
(CRIME NO. 688/2014 OF MARAYAMUTTOM
POLICE STATION, THIRUVANANTHAPURAM).**
- 2. STATION HOUSE OFFICER,
MARAYAMUTTOM POLICE STATION,
THIRUVANANTHAPURAM - 695 131
(CRIME NO. 688/2014 OF MARAYAMUTTOM
POLICE STATION, THIRUVANANTHAPURAM.)**

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 09-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

B. KEMAL PASHA, J.

.....
B.A. No.104 of 2015
.....

Dated this the 9th day of February, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.2 and 1 respectively in Crime No.688/2014 of Marayamuttom Police Station registered for the offences punishable under Sections 454, 294(b), 308 and 427 read with Section 34 IPC.

3. The allegation against the petitioners is that, on 07.12.2014 at 5.30 p.m. they trespassed into the house of the *defacto complainant*, abused him and A1 beat the *defacto complainant* with an iron bar. He got rid of the clutches of the petitioners and ran out. Then, the petitioners, along with A3, smashed and destroyed the glass affixed to the windows and the utensils in the kitchen, thereby causing a wrongful loss of ₹10,000/- to the *defacto complainant*.

4. Heard the learned counsel for the petitioners and

the learned Public Prosecutor.

5. The learned counsel for the petitioners has argued that on the date of incident itself, at 4.30 p.m., the *defacto complainant* had attacked the mother of the 1st petitioner, thereby outraging her modesty while she was returning from her work place, for which Crime No.697/2014 of the said police station was registered for the offences under Sections 341, 294(b), 323 and 354 IPC. It is also pointed out that a counter case has been registered in respect of the present case as Crime No.698/2014 for the offences under Sections 294(b), 452 and 427 IPC as the *defacto complainant* had trespassed into the house of the petitioners and smashed and destroyed the household articles. On going through the contents of the CD and the wound certificate, I do not think that there are sufficient ingredients to invite an offence under Section 308 IPC. The investigation of this case is practically over. The custodial interrogation of the petitioners is not required for the

continued investigation of this case. No criminal antecedents have been reported against the petitioners. Considering all the above, I am of the view that anticipatory bail can be granted to the petitioners by making a provision for compensating the loss sustained to the *defacto complainant*.

6. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioners, is directed to enlarge the petitioners on bail in the event of their arrest on each of them executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) *Each of the petitioners shall deposit ₹5,000/- before the court below, within 10 days from today.*

(ii) *The petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m.*

on all Mondays and Thursdays, commencing from 16.02.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(iii) The petitioners shall not tamper with the evidence or influence witnesses.

(iv) The petitioners shall make themselves available for interrogation as and when required by the investigating officer.

(v) The petitioners 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.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/09/02

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PA to Judge