

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

Bail Appl..No. 141 of 2015

**CRIME NO. 1063/2014 OF PATHANAMTHITTA POLICE STATION ,
PATHANAMTHITTA DISTRICT**

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

- 1. ANEESH, AGED 27 YEARS,
S/O. RAVEENDRAN NAIR, NARANATH VEEDU, VALLIKODU P.O.,
PATHANAMTHITTA.**
- 2. ULLAS, AGED ABOUT 26 YEARS,
S/O.RAJU, PANICKASSERIL KIZHAKKETHIL VEEDU,
VALLIKODU P.O., PATHANAMTHITTA.**

**BY ADVS.SRI.P.S.SREEDHARAN PILLAI
SRI.ARJUN SREEDHAR**

RESPONDENT(S)/COMPLAINANT & STATE :

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.LALIZA T.Y

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 28-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

B.KEMAL PASHA, J.

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B.A. No.141 of 2015

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Dated this the 28th day of January, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are A1 and A2 in Crime No.1063 of 2014 of the Pathanamthitta Police Station, registered for the offences punishable under Sections 143, 147, 148, 452, 324, 427 read with Section 149 IPC.

3. The allegation against the petitioners and the other accused is that on 08.06.2014 at 9.00 p.m., they formed themselves into an unlawful assembly armed with deadly weapons like nanjak, iron rod etc., committed house trespass into the house of the defacto complainant and they severely beat the defacto complainant, his son and daughter-in-law, with deadly weapons. It is alleged that they have smashed and damaged the furniture as well as the house hold articles in the house, thereby causing a wrongful loss of Rs.18,000/- to the defacto complainant.

4. Heard learned counsel for the petitioners and

learned Public Prosecutor.

5. The learned Public Prosecutor has pointed out that the 1st accused, who is the 1st petitioner herein, is an accused in Crime No.1642 of 2013, Crime No.330 of 2013 and Crime No.773 of 2013 of the Pathanamthitta Police Station, Crime No.503 of 2013 of the Adoor Police Station and Crime No.225 of 2013 of the Koduman Police Station, over an above the present crime. Considering the fact that the 1st petitioner is a habitual offender involved in series of serious criminal cases, I am satisfied that he is not entitled to the discretionary relief of anticipatory bail.

6. At the same time, no criminal antecedents have been reported against the 2nd accused, who is the 2nd petitioner herein. It is a fact that the defato complainant has sustained a wrongful loss of Rs.18,000/-, on account of the acts of the accused. Considering the facts and circumstances of the case and the allegations against the 2nd petitioner, I am of the view that anticipatory bail can be granted to him by making a

provision for compensating the loss sustained to the defacto complainant.

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 the 2nd petitioner, is directed to enlarge the 2nd petitioner on bail in the event of his arrest on his 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) The 2nd petitioner shall deposit an amount of Rs.18,000/- (Rupees eighteen thousand only) before the court below within 15 days from today.

(ii) The 2nd petitioner shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Wednesdays and Saturdays commencing from 04.02.2015 for a period of three

months or till the filing of the final report in this case, whichever is earlier.

(iii) The 2nd petitioner shall not tamper with the evidence or influence witnesses.

(iv) The 2nd petitioner shall make himself available for interrogation as and when required by the investigating officer.

(v) The 2nd petitioner 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.

This bail application, as far as the 1st petitioner is concerned, is dismissed. At the same time, the learned counsel for the 1st petitioner seeks for an opportunity to the 1st petitioner to surrender before the investigating officer and to co-operate with the investigation. 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/28/1/15

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P.A. To Judge