

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

Bail Appl..No. 204 of 2015 ()

CRIME NO. 809/2014 OF ANCHUTHENGU POLICE STATION, THIRUVANANTHAPURAM

PETITIONERS/ACCUSED NOS. 1 TO 4 :

- 1. BIJU @ SEBASTIAN,
AGED 28 YEARS, S/O.ANTONY,
KUNNUMPURAM, ANCHUTHENGU
KADAKKAVOOR, THIRUVANANTHAPURAM DISTRICT.**
- 2. JOY
AGED 22 YEARS, S/O.JOEBOY,
VILAKKUMADAM (H), ANCHUTHENGU
KADAKKAVOOR, THIRUVANANTHAPURAM DISTRICT.**
- 3. BINU, AGED 16 YEARS
S/O.ANTONY, KUNNUMPURAM, ANCHUTHENGU
KADAKKAVOOR, THIRUVANANTHAPURAM DISTRICT.**
- 4. JOS, AGED 19 YEARS
S/O.JOEBOY, VILAKKUMADAM (H), ANCHUTHENGU
KADAKKAVOOR, THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.P.N.SUKUMARAN
SRI.K.A.ANAS**

RESPONDENTS/STATE/COMPLAINANT :

- 1. STATE OF KERALA
REP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA AT ERNAKULAM.**
- 2. THE SUB INSPECTOR OF POLICE
ANCHUTHENGU POLICE STATION-695 002.**

R1 & R2 BY PUBLIC PROSECUTOR SMT. MADHUBEN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13-07-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

SUNIL THOMAS, J.

B.A. No. 204 of 2015

Dated this the 13th day of July, 2015

ORDER

The petitioners are accused nos. 1 to 4 in Crime No. 809/2014 of Anchuthengu Police Station for offences punishable under Sections 452, 341, 323, 324, 427, 354 r/w Section 34 of I.P.C.

2. According to the de facto complainant, on 25.12.2014 at about 4.30 a.m while he was returning in his Auto-rickshaw, he was intercepted by a group of persons including the petitioners. It is alleged that he was physically assaulted by them. He sustained an injury on his index finger and he escaped. After he reached home, the accused allegedly trespassed into his house and again assaulted him. It is further alleged that in the course of the above incident, the family members were also assaulted. A complaint was lodged and crime was

registered. The petitioners herein apprehends arrest and sought for pre arrest bail.

3. Heard both sides and examined the records.

4. According to the de facto complainant, there were two separate incidents, but interlinked to each other. Even according to the de facto complainant, no weapon was used. The only visible injury which he sustained is an injury on the index finger. There is nothing at present to show that the family members have also sustained any injury.

5. The learned counsel for the petitioners contended that infact the 1st petitioner was attacked by the de facto complainant on the same day and time. To substantiate it, the learned counsel has produced Annexure 1, which is an Out Patient record issued by the Medical College Hospital, Trivandrum, in relation to his admission on 25.12.2014 at 6.30 p.m. It appears that he was referred to the Medical College from the Taluk Hospital, Chirayinkil. In the above wound certificate,

there is a specific reference that at 4.30 a.m he was assaulted by 4 to 5 identifiable persons. There was a complaint of trauma to head and injuries on other various parts of the body. Few condutions are noted. He had undergone various procedures including CT Scan and X Ray.

6. The learned counsel further relied on Annexure 2. A complaint dated 29.12.2014 was submitted by the mother of the 1st accused, alleging that the de facto complainant herein along with two other persons, had been threatening her son with dire consequences. It is stated that, pursuant to the above threat, he was attacked on 25.12.2014 and that though complaint was lodged to police, no action was taken. Of course, there are no materials to substantiate that any previous complaint was given to the police. Further, even going by the wound certificate, there are indications that the 1st petitioner had sustained few injuries in the alleged incident. Considering the above facts, absence of specific

allegation of motives as against the de facto complainant, and further fact that no weapon is liable to be recovered, I feel that, the custodial interrogation of petitioners may not be essential in this case.

Hence, petition is allowed subject to the following conditions:

1. The Petitioners shall appear before the Investigating Officer on 22.07.2015 between 10 a.m and 11 a.m. They shall undergo interrogation and thereafter, in the event of they being arrested, they shall be released on bail on the petitioners executing a bond for a sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with two sureties for the like sum each.
2. He shall not in any manner, threaten, coerce or intimidate of the witnesses and shall not interfere with investigation process.

Sd/-
SUNIL THOMAS
JUDGE