

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

Bail Appl..No. 221 of 2015

CRIME NO. 1508/2014 OF KUNNIKKODE POLICE STATION, KOLLAM DISTRICT.
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PETITIONER(S)/ACCUSED NOS. 1 AND 2:

- 1. RATHEESH, AGED 28 YEARS,
S/O.SUDHAKARAN PILLAI, SUDHEESH BHAVAN,
VILAKKUDY VILAKKUDY P.O.,
PATHANAPURAM TALUK, KOLLAM DISTRICT.**
- 2. HARIKUMAR, AGED 35 YEARS,
S/O.BHASKARAN PILLAI, RADHA MANDIRAM,
VILAKKUDY, VILAKKUDY P.O.,
PATHANAPURAM TALUK, KOLLAM DISTRICT.**

**BY ADVS.SRI.C.RAJENDRAN
SMT.R.S.SREEVIDYA**

RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT.LALIZA.T.Y

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 27-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

B.KEMAL PASHA, J.

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B.A. No.221 of 2015

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Dated this the 27th day of January, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are A1 and A2 in Crime No.1508 of 2014 of the Kunnikkode Police Station, registered for the offences punishable under Sections 143, 147, 148, 341, 323, 324 and 308 IPC.

3. The allegation against the petitioners and the other accused is that on 09.11.2014 at 6.30 p.m., they formed themselves into an unlawful assembly armed with deadly weapons like granite stones and wrongfully restrained the defacto complainant and his friends, who were coming by motor bikes, and attacked them. It is alleged that 1st petitioner hit on the head of the defacto complainant with a granite stone thereby causing a serious injury. It is also alleged that the 2nd petitioner dragged the defacto complainant down and slapped and fisted him and also his friends.

4. Heard learned counsel for the petitioners and

learned Public Prosecutor.

5. All the main overt acts are alleged against the 1st petitioner. There is no allegation that the 2nd accused has made use of weapon. No criminal antecedents have been reported against the 2nd petitioner. Considering the facts and circumstances of the case, I am of the view that this is a fit case wherein anticipatory bail can be granted to the 2nd petitioner, who is the 2nd accused.

6. At the same time, this is a case wherein the custodial interrogation of the 1st petitioner is required for the continued investigation of this case. Matters being so, I am of the view that he is not entitled to the discretionary relief of anticipatory bail.

7. 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 report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Tuesdays and Fridays commencing from 03.02.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

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

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

(iv) 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.

8. 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/27/1/15

// True Copy //

P.A. To Judge

