

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

Bail Appl..No. 302 of 2015 ()

CRIME NO. 408/2013 OF KOTTIYAM POLICE STATION, KOLLAM
Bail Appl. 2206/2013 of HIGH COURT OF KERALA
DATED 10-06-2013

PETITIONERS/ACCUSED :

1. Y.VIJAYAN @ SHAJI, AGED 43 YEARS,
S/O.YOHANNAN, PALLIVADAKATHIL, NORTH MAILAKADU,
KANNANELLOOR P.O., KOLLAM.

2. Y.BHASI, AGED 38 YEARS,
S/O.YOHANNAN, PALLIVADAKATHIL, NORTH MAILAKADU,
KANNANELLOOR P.O., KOLLAM.

BY ADV. SRI.GEORGE SEBASTIAN

RESPONDENTS/COMPLAINANT :

STATE OF KERALA
REPRESENTED BY THE STATION HOUSE OFFICER,
KOTTIYAM POLICE STATION, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 10-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

DSV/11/2/15

B.KEMAL PASHA, J.

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B.A. No. 302 of 2015

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Dated this the 10th day of February, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are A2 and A3 in Crime No.408 of 2013 of the Kottiyam Police Station, pending investigation for the offences punishable under Sections 294(b), 323 and 307 read with Section 34 IPC.

3. The allegation against the petitioners and the other accused is that on 25.02.2013 at 10.00 p.m., they came in front of the shop of the defacto complainant and abused him. Thereafter, the 1st accused took a soda bottle and after breaking it, inflicted a stab injury on the left side of the chest of the defacto complainant, thereby causing very serious injury. It is alleged that the 2nd accused beat the defacto complainant on his left shoulder with a piece of firewood. The other accused beat, fisted and stamped the defacto complainant and smashed all the glass items, bottles etc. exhibited in front of the shop of the defacto complainant, thereby causing a wrongful loss of ₹4,500/- to the defacto

complainant.

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

5. Earlier the petitioners had approached this Court for anticipatory bail through B.A.No.2206 of 2013. The said application was dismissed. It seems that there is no change of circumstances at all. As far as the present case is concerned, the learned counsel for the petitioner has pointed out that A1 has been arrested and recovery has been effected. Considering the seriousness of the allegations against the petitioners and the other accused, I am of the view that this is not a fit case wherein anticipatory bail can be granted to the petitioners. At the same time, no criminal antecedents have been reported against the petitioners. By considering the said aspect, I am of the view that an opportunity can be granted to the petitioners to surrender before the investigating officer and to co-operate with the investigation.

In the result, this bail application is dismissed. At the

same time, if so advised, the petitioners may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioners, effect recovery if any, and conduct the investigation and produce the petitioners without delay before the court below, where the petitioners 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/10/2/15

// True Copy //

P.A. To Judge

