

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE B.KEMAL PASHA**

**THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936**

**Bail Appl.No. 321 of 2015**  
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**CRIME NO. 10/2015 OF THALAYOLAPARAMBU POLICE STATION, KOTTAYAM**  
.....

**PETITIONER(S)/ACCUSED 1 TO 3:**  
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1. VISHNU, S/O. MURALI,  
NEDUVELIL HOUSE, BRAHMAMANGALAM P.O.,  
PIN - 686 605.
2. VYSAKH, S/O.MURALI,  
NEDUVELIL HOUSE, BRAHMAMANGALAM P.O.,  
PIN - 686 605.
3. MURALI, S/O. KUMARAN,  
NEDUVELIL HOUSE, BRAHMAMANGALAM P.O.,  
PIN - 686 605.

**BY ADVS.SRI.SHAJI THOMAS  
SRI.BINU PAUL  
SRI.T.V.VINU**

**RESPONDENT(S)/STATE & COMPLAINANT:**  
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1. STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
2. SUB INSPECTOR OF POLICE,  
THALAYOLAPARAMBU, PIN - 686 605.

**BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
29-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**msv/**

**B.KEMAL PASHA, J.**

.....  
B.A. No. 321 OF 2015

.....  
Dated this the 29<sup>th</sup> day of January, 2015

**ORDER**

Application filed under Section 438 of the Code of Criminal Procedure.

2. Petitioners are A1 to A3 in Crime No.10 of 2015 of the Thalayolaparambu Police Station, Kottayam registered for the offences punishable under Sections 452, 323, 324, 427 and 294(b) read with Section 34 of the Indian Penal Code.

3. The allegation against the petitioners is that on 26.12.2014 at 9.05 p.m., they trespassed into the house of the defacto complainant and A1 beat on the head of one Johnson who is the son-in-law of the defacto complainant with an iron rod, A2 beat on the head of the said Johnson

with a beer bottle and stabbed on his left shoulder with the broken bottle. The allegations against the third accused is that he slapped and fisted the said Johnson. When the wife of the defacto complainant intervened for the rescue of the said Johnson, the second accused beat on her right cheek with the beer bottle. It is also alleged that they damaged and destroyed the windowpanes and the door of the house thereby causing wrongful loss to the defacto complainant.

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

5. According to the learned counsel for the petitioners, the petitioners and the defacto complainant are close relatives and they are residing in the very same compound. It is also pointed out that on the date of incident, the mother of the third accused was attacked by the said Johnson, for which a crime has been registered as Crime No.14/2015. At the same time, the allegations against A1 and A2 are very grave and serious. Considering the

seriousness of the allegations against A1 and A2, I am of the view that they are not entitled to the discretionary relief of anticipatory bail.

6. At the same time, as far as the third accused is concerned, the only allegation against him is that he slapped and fisted the said Johnson. No criminal antecedents have been reported against him. 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 3<sup>rd</sup> petitioner.

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 3<sup>rd</sup> petitioner, is directed to enlarge the 3<sup>rd</sup> petitioner on bail in the event of his arrest on his executing a bond for ₹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 3<sup>rd</sup> petitioner shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Thursdays and Mondays commencing from 05.02.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The 3<sup>rd</sup> petitioner shall not tamper with the evidence or influence witnesses.

(iii) The 3<sup>rd</sup> petitioner shall make himself available for interrogation as and when required by the investigating officer.

(iv) The 3<sup>rd</sup> 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 1<sup>st</sup> and 2<sup>nd</sup> petitioners are concerned, is dismissed. The learned counsel for 1<sup>st</sup> and 2<sup>nd</sup> petitioners seeks for an opportunity

for them to surrender before the investigating officer and to co-operate with the investigation. If so advised, 1<sup>st</sup> and 2<sup>nd</sup> petitioners may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate them, effect recovery if any, and conduct the investigation and produce them without delay before the court below, where 1<sup>st</sup> and 2<sup>nd</sup> 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**

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[True copy]

P.S. to Judge