

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

Bail Appl..No. 335 of 2015

CRIME NO. 1692/2014 OF EZHUKONE POLICE STATION, KOLLAM DISTRICT.
.....

PETITIONER(S)/ACCUSED 1 AND 2:

- 1. RAJESH, S/O.SIVASANKAR, AGED 25 YEARS,
VENGURI, PARUTHUMPARA, KARUVELIL,
EZHUKONE, KOLLAM.**
- 2. MAHESH, S/O.RAJU, AGED 28 YEARS,
RAJESH BHAVAN, PARUTHUMPARA,
KARUVELIL, EZHUKONE, KOLLAM.**

BY ADV. SRI.B.MOHANLAL

RESPONDENT/COMPLAINANT:

**STATE,
REPRESENTED BY THE STATION HOUSE OFFICER,
EZHUKONE POLICE STATION, KOLLAM DISTRICT,
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 30-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

B. KEMAL PASHA, J.

.....
B.A. No.335 of 2015
.....

Dated this the 30th day of January, 2015

ORDER

~ ~ ~ ~ ~

Petition under Section 438 Cr.P.C.

2. Petitioners are the accused in Crime No.1692/2014 of Ezhukone Police Station, Kollam registered for the offences punishable under Sections 323, 324 and 308 read with Section 34 IPC.

3. The allegation against the petitioners is that, on 24.12.2014 at 8.30 p.m. they attacked one Anoop, who is the brother of the *defacto complainant*. It is alleged that the 1st accused slapped and kicked the said Anoop, whereas,

the 2nd accused beat Anoop on his head with an iron rod and repeatedly beat him with the iron rod on other parts of his body, thereby causing serious injuries by attempting to commit culpable homicide.

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

5. The contents of the CD *prima facie* reveal the complicity of the petitioners. At the same time, no criminal antecedents have been reported against the petitioners. The only allegation against the 1st petitioner is that he had slapped and kicked the brother of the *defacto complainant*. There is no allegation that he has made use of any weapon. At the same time, the allegations against the 2nd petitioner are very grave and serious. The learned Public Prosecutor has pointed out that the weapon allegedly used by the 2nd petitioner has not yet been recovered. Considering the seriousness of the allegations against the 2nd petitioner, I am of the view that he is not entitled to the discretionary relief of

anticipatory bail. At the same time, this is a fit case wherein anticipatory bail can be granted to the 1st petitioner.

6. 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 1st petitioner, is directed to enlarge him 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 each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) The 1st petitioner shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Fridays and Tuesdays commencing from 06.02.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The 1st petitioner shall not tamper with the evidence or influence witnesses.

(iii) The 1st petitioner shall make himself available for interrogation as and when required by the investigating officer.

(iv) The 1st 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.

7. As far as the 2nd petitioner is concerned, this bail application is dismissed. The learned counsel for the petitioners seeks for an opportunity to the 2nd petitioner to surrender before the investigating officer and to co-operate with the investigation.

If so advised, the 2nd petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the 2nd petitioner, effect recovery if any, and conduct the investigation and produce the 2nd petitioner without delay before the concerned Judicial First Class Magistrate's Court, where the 2nd 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

BA.335/2015

: 5 :

application has been given to the Assistant Public
Prosecutor also.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/30/01

// True Copy //

PA to Judge