

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

Bail Appl..No. 337 of 2015

CRIME NO. 1695/2014 OF KALLAMBALAM POLICE STATION , THIRUVANANTHAPURAM

PETITIONER(S)/1ST ACCUSED:

**BIJU, AGED 35 YEARS
S/O.MOHANAN, PLAVILA VEEDU, KARAVARAM (P.O.)
THOTTAKAD, THIRUVANANTHAPURAM.**

**BY ADVS.SRI.M.RAJAGOPALAN NAIR
SRI.G.BIJU**

RESPONDENT(S)/COMPLAINANT & STATE:

**1. SUB INSPECTOR OF POLICE
KALLAMBALAM POLICE STATION, KALLAMBALAM
THIRUVANANTHAPURAM-695001.**

**2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10-03-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

B.KEMAL PASHA, J.

B.A.No.337 of 2015 B

Dated this the 10th day of March 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the first accused in Crime No.1695/2014 of Kallambalam police station registered for the offences punishable under Sections 341, 323, 324 and 308 read with Section 34 of the I.P. C.

3. The allegation against the petitioner and the other accused is that on 16.12.2014 at 7 p.m., they wrongfully restrained the *defacto complainant* and A1 beat on the head of the *defacto*

complainant with an iron rod, thereby causing an injury. It is alleged that A2 hit on the head of the *defacto complainant* with a granite stone, and A3 and A4 slapped, fisted and kicked the *defacto complainant*.

4. Presently, an offence under Section 427 of the I.P.C., has also been added alleging that the petitioner and the other accused had caused damage to the motor bike of the *defacto complainant*.

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

5. The contents of the CD, *prima facie*, reveal the complicity of the petitioner. It seems that the discharge summary issued from the Sree Gokulam Medical College and Research Foundation, Thiruvananthapuram shows that the *defacto complainant* sustained a fracture line in the lateral wall of right orbit. The allegations against the petitioner are very grave and serious. The investigation of this case is not over. It is true that a counter case has been

registered against the *defacto complainant* and some other persons.

Considering the seriousness of the allegations against the petitioner and the present stage of investigation, I am of the view that this is not a fit case wherein anticipatory bail can be granted to the petitioner. At the same time, no criminal antecedents have been reported against the petitioner. Considering the said aspect, I am of the view that an opportunity can be given to the petitioner to surrender before the investigating officer and to co-operate with the investigation.

6. In the result, this bail application is dismissed. At the same time, if so advised, the petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioner, effect recovery if any, and conduct the investigation and produce the petitioner without delay before the concerned Judicial First Class Magistrate's Court, where the 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

dl

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PA to Judge