

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

Bail Appl..No. 360 of 2015 ()

CRIME NO. 623/2014 OF MARAYAMUTTOM POLICE STATION

PETITIONER(S)/ACCUSED (A3 & A4):

- 1. RAHUL S.R., AGED 19 YEARS,S/O.SASIDHARAN,
S.R.BHAVAN, KARIPRATHALAMELE VEEDU,
MARUTHATHOOR, CHAIKOTTUKONAM P.O.**
- 2. VIPIN, AGED 19 YEARS,S/O.CHANDRAN,
NIRMALA BHAVAN, THEECHAKUZHI COLONY,
MARUTHATHOOR, CHAIKOTTUKONAM P.O.**

BY ADV. SRI.R.T.PRADEEP

RESPONDENT :

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

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 06-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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B.KEMAL PASHA, J.

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B.A. No. 360 of 2015

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Dated this the 6th day of February, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are A3 and A4 in Crime No.623 of 2014 of the Marayamuttom Police Station, Thiruvananthapuram, registered for the offences punishable under Sections 452, 506(ii), 294(b), 324 and 427 read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act.

3. It is alleged that the petitioners along with A1 and A2, went to the house of the defacto complainant at 4.10 p.m. on 15.11.2014 by two motorbikes. They were carrying hockey stick, cricket stump, sword and sticks as weapons with them. A1 and A2 committed house trespass into the house of the defacto complainant and beat the defacto complainant and his brother. It is alleged that the 3rd accused was brandishing a sword by removing others from coming to the spot. It is also

alleged that A4 has smashed some household articles with a stick.

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

5. It is true that no criminal antecedents have been reported against the petitioners. Further, all the overt acts are alleged against A1 and A2. There is no allegation that these persons have trespassed into the house of the defacto complainant. At the same time, there is an allegation that A3 was brandishing a sword and the same has not been recovered. Similarly, the stick allegedly used by the 2nd petitioner has also not been recovered. Matters being so, I am of the view that anticipatory bail cannot be granted to the petitioners as the investigation of this case is at a crucial stage. At the same time, considering the lesser role played by the petitioners in the incident, I am of the view that they can be given an opportunity to surrender before the investigating officer and to co-operate with the investigation for effecting

recovery.

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 concerned Judicial First Class Magistrate's Court, 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/6/2/15

// True Copy //

P.A. To Judge

