

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

Bail Appl..No. 471 of 2015

CRIME NO. 31/2015 OF HOSDURG POLICE STATION , KASARGOD DISTRICT

PETITIONER(S)/2ND ACCUSED :

**MOHAMMED AJMAL, AGED 30 YEARS,
S/O.ISMAIL, RESIDING AT SHAIKINKADATH HOUSE,
NEAR IQBAL H.S.SCHOOL, AJANUR, KOLAVAYAL.P.O,
KANHANGAD, KASARAGOD DISTRICT.**

BY ADV. SRI.T.MADHU

RESPONDENT(S)/STAE :

**THE STATE OF KERALA,
THROUGH THE STATION HOUSE OFFICER,
HOSDURG POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**

BY PUBLIC PROSECUTOR SMT.LALIZA.T.Y

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 05-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

B. KEMAL PASHA, J.

.....
B.A. No.471 of 2015
.....

Dated this the 5th day of February, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioner is the second accused in Crime No.31/2015 of Hosdurg Police Station registered for the offences punishable under Sections 341, 323, 324, and 308 read with Section 34 IPC.

3. The allegation against the petitioner and other accused is that on 08.01.2015 at 12.45 p.m. they obstructed the bus by which the *defacto complainant* was travelling and thereafter, pulled down the *defacto complainant* from the bus and slapped him with hands and also beat him with iron rod, thereby attempting to commit culpable homicide.

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

5. The learned Public Prosecutor has pointed out

that the petitioner is one of the accused in Crime NO.184/2013 of Hosdurg Police Station, presently pending as C.C.2707/2013 before the Judicial First Class Magistrate's Court-I, Hosdurg and that, non bailable warrant is pending against the petitioner in that case. It has been pointed out that the iron rod used by the accused for inflicting injury on the *defacto complainant* has not been recovered in this case. Considering the seriousness of the allegations against the petitioner and the present stage of the investigation and the fact that non bailable warrant is pending against him in the other case, I am of the view that he is not entitled to the discretionary relief of anticipatory bail. Considering all the above, I am of the view that, while dismissing this bail application, an opportunity can be granted to the petitioners to surrender before the investigating officer and to co-operate with the investigation and to effect recovery of the weapon used.

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)**

aks/05/02

*// True Copy //*

*PA to Judge*