

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

Bail Appl.No. 483 of 2015

FIR NO.41/2015 OF KODUMON POLICE STATION
.....

PETITIONER(S):

**MATHEW C.G.ALIAS BABUGI, AGED 54 YEARS,
S/O. GEEVARGHESE, KULATHINKARROTTU, THATTAYIL P.O.,
MANKUZH, PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.S.SHAJAHAN (ADOOR)

RESPONDENT(S)/COMPLAINANT:

**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
16-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

B.KEMAL PASHA, J.

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B.A. No.483 of 2015

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Dated this the 16th day of February, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.41 of 2015 of the Kodumon Police Station, registered for the offences punishable under Sections 294(b) and 326 of the Indian Penal Code.

3. The allegation against the petitioner is that on 11.01.2015, at 9.30 p.m., he came near the car of the defacto complainant, while the defacto complainant was in the driving seat. The petitioner came by his motorbike and got down near the car and attempted to smash the glass of the right front door of the car. Then the defacto complainant got out of the car and enquired as to why he was doing it. Then the petitioner beat on the head of the defacto complainant with his helmet. The defacto complainant tried to ward it off with his left hand, thereby he sustained the fracture of his left ulna as well as radius.

4. Heard learned counsel for the petitioner and the

learned Public Prosecutor.

5. According to the learned counsel for the petitioner, the petitioner is a heart patient. The allegations against the petitioner are very grave and serious. It seems that unnecessarily the defacto complainant was attacked and severe fractures of both the bones of his left hand was caused. True that there is no criminal antecedents on the part of the petitioner. At the same time, this is not a fit case wherein anticipatory bail can be granted to the petitioner. As no criminal antecedents have been reported against the petitioner, I am of the view that this is a fit case wherein an opportunity can be granted to the petitioner to surrender before the investigating officer and to co-operate with the investigation.

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 court below, 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

DSV/16/2/15

//True Copy//

P.A. To Judge.