

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. 608 of 2015

CRIME NO. 4/2015 OF ARALAM POLICE STATION, KANNUR
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PETITIONER(S):

**MATHEW @ MATHACHAN, AGED 56 YEARS,
S/O.MATHAI, PUTHENPURAKKAL ARALAM AMSOM DESOM,
ARALAM, KANNUR DISTRICT.**

**BY ADVS.SRI.GRASHIOUS KURIAKOSE
SRI.GEORGE MATHEWS**

RESPONDENT(S):

**STATE OF KERALA
THROUGH STATION HOUSE OFFICER, ARALAM POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.SREEJITH V.S.

**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. 608 of 2015

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Dated this the 16th day of February, 2015

O R D E R

Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.4/2015 of the Aralam Police Station, Kannur District, registered for the offences punishable under Sections 448, 506(ii), 324 and 308 IPC.

3. The allegation against the petitioner is that on 01.01.2015 at 3 p.m., he committed trespass into the shop of the de facto complainant with a knife and criminally intimidated him and attempted to inflict cut aimed at his neck and also stab aimed at his abdomen. The same were warded off, thereby he sustained injuries.

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

5. The learned senior counsel has argued that no such incident had taken place apart from a minor skirmish that had occurred in connection with a complaint regarding a mattress that

was purchased by him from the shop. The wound certificate of the de facto complainant which finds a place among the records in the C.D gives the first version of the de facto complainant regarding the incident. Same is the version given by him in his first information statement also. At the same time, there is a difference in the statement furnished by him before the doctor, regarding the weapon. In the wound certificate he had stated that he was attacked with a sword, whereas his version in the first information statement is that he was attacked with a knife. It seems that there were abrasions on his body as is evident from the wound certificate. His versions regarding the incident coincide with the injuries noted in the wound certificate. Considering the facts and circumstances of the case, and the fact that the petitioner had made use of a weapon, I am of the view that this is not a fit case wherein anticipatory bail can be granted. At the same time, when no criminal antecedents have been pointed out 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 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

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PA to Judge