

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. 622 of 2015 ()

CRIME NO. 92/2015 OF POOYAPALLY POLICE STATION, KOLLAM

PETITIONERS/ACCUSED :

1. BINESH, S/O.VIJAYAN AGED 26 YEARS
NEDUMANCODU CHARUVILA PUTHEN VEEDU,
KATTADY P.O., OYOOR
2. BIJU, S/O.APPUKKUTTAN ACHARY, AGED 31 YEARS,
NEDUMANCODU CHARUVILA PUTHEN VEEDU, KATTADY P.O, OYOOR
3. VIJESH V., S/O.VIJAYAN, AGED 23 YEARS,
NEDUMANCOD., OYOOR.
4. BIJU, S/O.VASUDEVAN ACHARY, AGED 35 YEARS,
BINDHU BHAVAN, KOKKADU, VETTIKKAVALA,
KOKKADU P.O.

BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)

RESPONDENTS/STATE :

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
2. THE S.I. OF POLICE
POOYAPPALLY POLICE STATION.

R1 & R2 BY PUBLIC PROSECUTOR SRI. SREEJITH V.S.

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

bp

B.KEMAL PASHA, J.

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B.A. No.622 of 2015

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Dated this the 10th day of March, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. The petitioners are A1 to A4 in Crime No.92 of 2015 of the Pooyappally Police Station, registered for the offences punishable under Sections 341, 323, 324, 452 and 308 read with Section 34 of the Indian Penal Code.

3. The allegation against the petitioners is that on 18.01.2015 at 9 p.m., the 3rd petitioner smashed the kitchen door of the house of the defacto complainant and all the accused committed house trespass. It is alleged that the 3rd petitioner beat on the head of the defacto complainant with an iron rod, thereby causing serious injuries. The allegations against the other petitioners is that they slapped and fisted the defacto complainant.

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

5. All the main overt acts are alleged against the 3rd petitioner. The wound certificate of the defacto complainant, which finds a place among the records in the CD reveals that he sustained a lacerated wound 4x2xbone deep on the left frontal region along with other injuries. There is specific allegation that the 3rd petitioner beat on the head of the defacto complainant with an iron rod. There is no allegation that the other petitioners have made use of any weapon and no criminal antecedents have been reported against them. Considering the seriousness of the allegations against the 3rd petitioner, I am of the view that he is not entitled to the discretionary relief of anticipatory bail. At the same time, I am of the view that anticipatory bail can be granted to petitioners 1, 2 and 4.

6. In the result, this bail application is allowed in part and the investigating officer or such other police officer, who is conducting the arrest of petitioners 1, 2 and 4, is directed to enlarge the petitioner on bail in the event of their arrest on

each of them executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties for the like sum each to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) Petitioner 1, 2 and 4 shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Tuesdays and Fridays commencing from 17.03.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) Petitioner 1, 2 and 4 shall not tamper with the evidence or influence witnesses.

(iii) Petitioner 1, 2 and 4 shall make themselves available for interrogation as and when required by the investigating officer.

(iv) Petitioner 1, 2 and 4 shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

7. The learned counsel for the petitioners seeks for an

opportunity to the 3rd petitioner to surrender before the investigating officer and to co-operate with the investigation.

8. This bail application, as far as the 3rd petitioner is concerned, is dismissed. At the same time, if so advised, the 3rd petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the 3rd petitioner, effect recovery if any, and conduct the investigation and produce the 3rd petitioner without delay before the court below, where the 3rd 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/10/3/15

// True Copy //

P.A. To Judge