

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

Bail Appl..No. 646 of 2015

CRIME NO. 1039/2014 OF KATTAKADA POLICE STATION, THIRUVANANDAPURAM.
.....

PETITIONER/ACCUSED:

**AKESH KUMAR @ AJIKUTTAN,
AGED 19 YEARS, S/O.SATHEESH KUMAR,
A.K.NIVAS, THEKKEVEEDU,
KATTAKADA, THIRUVANANTHAPURAM.**

BY ADV. SRI.M.R.SARIN

RESPONDENT(S)/STATE:

- 1. STATE OF KERALA, REPRESENTED BY
REPRESENTED THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. THE SUB INSPECTOR OF POLICE,
KATTAKADA POLICE STATION,
REPRESENTED THOURGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.SREEJITH.V.S

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 23-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

B.KEMAL PASHA, J.

B.A.No.646 of 2015 A

Dated this the 23rd day of February 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the first accused in Crime No.1039/2014 of Kattakkada police station, Thiruvananthapuram registered for the offences punishable under Sections 294(b), 323, 324 and and 308 read with Section 34 of the I.P. C.

3. The allegation against the petitioner and the other accused is that on 16.8.2014 at 10 p.m., he along with other accused wrongfully restrained the de-facto complainant in front of a shop and attacked him. It is alleged that that the petitioner beat on the head of the de-facto complainant with an iron rod, thereby causing a serious injury. It is also alleged that the second accused beat him on his head with an iron rod

and the same was warded off, by the de-facto complainant. The other accused slapped, fisted and stamped the de-facto complainant.

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

5. The contents of the C.D. *Prima facie* reveal the complicity of the petitioner. At the same time, it is a fact that no criminal antecedents has been reported against the petitioner. The wound certificate of the de-facto complainant shows that he sustained a lacerated wound of 5 x 2 c.m. on his scalp. The Investigating Officer has reported that the weapon allegedly made use of, by the petitioner, to inflict the said injury, has not yet been recovered. Matters being so, this is a case wherein the custodial interrogation of the petitioner is required for the continued investigation of this case. The petitioner is not entitled to the discretionary relief of anticipatory bail. At the same time, considering the fact that no criminal antecedents has been reported against the

petitioner and that accused Nos.2 and 3 have been arrested, I am of the view that an opportunity can be granted to the petitioner to surrender before the Investigating Officer and to co-operate with the investigation.

6. 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

dl

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PA to Judge