

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.KEMAL PASHA

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

Bail Appl..No.678 of 2015

(CRIME NO.1819/2014 OF KODANAD POLICE STATION,ERNAKULAM).

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PETITIONERS/ACCUSED 1 TO 3:

1. **SREEJITH @ SREEJU,AGED 25 YEARS,
S/O.KAROTTAPPURAM HOUSE,CHUNDAKUZHI,
ERNAKULAM DISTRICT.**
2. **ROY,AGED 40 YEARS,S/O.KURIAKOSE,
THOLAYL HOUSE,THANDEKKAD,
VENGOLA VILLAGE,ERNAKULAM DISTRICT.**
3. **SOMAN M.K,AGED 37 YEARS,S/O.KRISHNAN KUTTY,
KLLIL HOUSE,THANDEKKAD,VENGOLA VILLAGE,
ERNAKULAM DISTRICT.**

BY ADV. SRI.C.A.NAVAS

RESPONDENTS/COMPLAINANTS:

1. **SUB INSPECTOR OF POLICE,
KODANADU POLICE ,
ERNAKULAM DISTRICT.**
2. **STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.SREEJITH.V.S.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 24-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

pk

B.KEMAL PASHA, J.

B.A.No.678 of 2015 D

Dated this the 24th day of February 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are accused 1 to 3 in Crime No.1819/2014 of Kodanadu Police Station pending investigation for the offences punishable under Sections 447, 326 and 324 read with Section 34 of the I.P. C.

3. It is alleged that on 24.12.2014 at 8.30 p.m., A2 trespassed into the courtyard behind house of the de-facto complainant, came near the toilet and caught hold of the wife of the de-facto complainant. She cried aloud, which attracted the attention of the de-facto complainant. The de-facto complainant went over there and caught hold of A2 and dragged him from there

and pushed him to the road. Thereafter at 8.40 p.m., A2 along with the other accused, committed trespass into the court yard of the house of the de-facto complainant and attacked the de-facto complainant. He was severely beaten up. He was attacked with iron rods, thereby he sustained undisplaced fracture of acromion (right). He was initially taken to the Government Hospital, Perumbavoor, from where he was referred to the Medical College Hospital, Cochin.

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

5. The learned counsel for the petitioners has pointed out that Crime No.812/2014 was registered against the de-facto complainant, as he attacked the A2, whereby A2 sustained injuries. It is alleged that the de-facto complainant attacked A2 with a chopper, thereby causing an injury on his elbow and he lost one tooth and suffered fracture on another tooth. The case of the

learned counsel for the petitioner is that the present case has been registered only after 4 days of the incident.

6. It seems that the present crime was registered by the police after recording the F.I. statement of the de-facto complainant, while the de-facto complainant was being treated as an inpatient at the Medical College, Cochin. The fault committed by the police in causing delay in registering the crime, cannot be attributed to the de-facto complainant. Considering the seriousness of the allegations against the petitioners, I am of the view that this is not a fit case wherein anticipatory bail can be granted to the petitioners. At the same time, as there are no criminal antecedents on the part of the petitioners, I think that an opportunity can be given to the petitioners 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 petitioners may surrender before the

investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioners, effect recovery if any, and conduct the investigation and produce the petitioners without delay before the concerned Judicial First Class Magistrate's Court, where the petitioners 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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P.A. To Judge