

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

Bail Appl..No. 683 of 2015 ()

CRIME NO. 1034/2014 OF NADAKKAVU POLICE STATION, KOZHIKODE

PETITIONER/ACCUSED NO.1:

**ASWIN V.K., AGED 18 YEARS,
S/O.VINODKUMAR, SOPANAM HOUSE, CHELAVOOR P.O.,
KALANDITHAZHAM, KOZHIKODE.**

**BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.M.REVIKRISHNAN
SRI.VIPIN NARAYAN**

RESPONDENT/COMPLAINANT :

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SRI. SREEJITH V.S.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 10-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

[CR]

B.KEMAL PASHA, J.

.....
B.A. No.683 of 2015
.....

Dated this the 10th day of February, 2015

ORDER

Is there any difference between the expressions "*attained the age of 18*" and "*completed the age of 18*"?

2. The first accused in Crime No.1034/2014 of the Nadakkavu Police Station, Kozhikode registered for the offences punishable under Sections 143, 147, 148, 341, 323, 324, 326 and 308 read with Section 149 of the Indian Penal Code, seeks anticipatory bail under Section 438 Cr.P.C.

3. The allegation against the petitioner and the other accused is that on 19.11.2014 at about 9.30 a.m. they formed themselves into an unlawful assembly, armed with

deadly weapons like wooden reaper etc., in front of the Chemistry Lab of the Malabar Christian College, Kozhikode and wrongfully restrained the defacto complainant and attacked him. It is alleged that the petitioner beat the defacto complainant on his face with a wooden reaper, thereby the defacto complainant lost one tooth, mobility to two other teeth, and another tooth has become partially broken. They beat and slapped another student, who had attempted to intervene for the rescue of the defacto complainant.

4. Heard learned Senior Counsel for the petitioner and the learned Public Prosecutor. Perused the CD.

5. According to the learned Senior Counsel for the petitioner, the petitioner has not completed the age of eighteenth year and, therefore, he could only be treated as a juvenile in conflict with law as on 19.11.2014, i.e., the date of incident. It is also argued that his mother, who is a cancer patient, is undergoing treatment in a hospital at Kozhikode and her medical records are also produced.

6. The learned Public Prosecutor has argued that the petitioner had completed 18 years of age as on the date of incident and, therefore, he cannot be treated as a juvenile in conflict with law.

7. The learned Senior Counsel has forwarded an argument that the petitioner could only be treated as a juvenile in conflict with law within the meaning of Section 2(l) of the Juvenile Justice(Care and Protection of Children) Act, 2000(*hereinafter referred to as 'the Act 2000'*) as he had not completed the eighteenth year of age as on the date of commission of the offence. The learned Senior Counsel has pointed out that Section 2(j) of the Juvenile Justice Act, 1986 (the old Act)(*hereinafter referred to as 'the Act 1986'*) defines a juvenile as “a boy who has not attained the age of 16 years or a girl who has not attained the age of 18 years”, and when the said Act was substituted by the Act 2000, the expression was substituted as “*Juvenile who has*

not completed 18 years of age”.

8. In short, the argument forwarded by the learned Senior Counsel is that when a person starts his 19th year of age, he ceases to be a juvenile in conflict with law within the meaning of the Act 2000. The copy of the birth certificate of the petitioner shows his date of birth as 08.11.1996. Even if the argument forwarded by the learned Senior Counsel is accepted, it seems that he had completed the age of 18 years on 07.11.2014. The date of incident is 19.11.2014.

9. The Major Law Lexicon by P. Ramanatha Iyer, 4th Edition defines '*attained majority*' as '*arrived at an age at which one becomes legally capable of conducting his own affairs*'. In fact, the petitioner has arrived at the age of 18 on 08.11.2013, and therefore, it can be said that he has attained his 18th year of age on 08.11.2013. At the same time, he completes the age of 18 on 07.11.2014 only. During the period from 08.11.2013 to 07.11.2014 he was running

the age of 18. The legislature, in its wisdom, has chosen to make a person a juvenile in conflict with law within the meaning of Section 2(l) of the Act 2000, as *a juvenile who is alleged to have committed an offence, and who has not completed the age of 18 years of age as on the date of commission of such offence*. The petitioner could have been styled as a juvenile in conflict with law for the period only up to 07.11.2014, since he has started his age of 19 with effect from 08.11.2014. Matters being so, the petitioner is not entitled to be styled as a juvenile in conflict with law within the meaning of Section 2(l) of the Act 2000.

10. It seems that, as per the medical records, the mother of the petitioner is suffering from cancer and has been undergoing treatment in a hospital at Kozhikode for the same. The learned Senior Counsel has pointed out that some of the other accused in the crime were granted anticipatory bail. There is a counter case also relating to the incident. It seems that it was a clash between two students'

groups of a College.

11. Investigation of this case is practically over. The contents of the CD reveal that custodial interrogation of the petitioner is not required for the continued investigation of this case. The objection raised by the prosecution is that some of the accused are yet to be arrested and the defacto complainant and other witnesses have to be questioned further. The prosecution has forwarded a further apprehension that in case of granting anticipatory bail to the petitioner, it would tend to defeat the peaceful atmosphere at the college.

12. No criminal antecedents have been reported against the petitioner. Even though the acts alleged on the part of the petitioner cannot be justified, in the absence of any criminal antecedents on his part, and by considering the circumstances pointed out by the learned Senior Counsel for the petitioner, I am of the view that anticipatory bail can be granted to the petitioner also.

In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioner, is directed to enlarge the petitioner on bail in the event of his arrest on his executing a bond for ₹50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) One of the sureties shall be the father of the petitioner.

(ii) The petitioner shall report before the investigating officer in between 9 a.m. and 10 a.m. on all Tuesdays and Fridays commencing from 17.02.2015 for a period of six months.

(iii) The petitioner shall not tamper with the evidence or influence witnesses.

(iv) The petitioner shall make himself available for interrogation as and when required by the investigating officer.

(v) The petitioner 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.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge