

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

Bail Appl..No. 699 of 2015

CRIME NO. 30/2015 OF PERINTHALMANNA POLICE STATION, MALAPPURAM DISTRICT

PETITIONER(S)/ACCUSED :

**ABDUL GAFOOR, AGED 33 YEARS,
S/O.KUNHIMOHAMMED, PUTHOOR HOUSE,
PERINTHALMANNA P.O., MALAPPURAM DISTRICT.**

BY ADV. SRI.T.PRASAD

RESPONDENT(S)/COMPLAINANT :

**STATE REPRESENTED BY THE STATION HOUSE OFFICER,
PERINTHALMANNA POLICE STATION, MALAPPURAM DISTRICT,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.LALIZA.T.Y

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 25-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

B.KEMAL PASHA, J.

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B.A. No.699 of 2015

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Dated this the 25th day of February, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.30 of 2015 of the Perinthalmanna Police Station, Malappuram District, registered for the offences punishable under Sections 326 and 308 of the Indian Penal Code.

3. The allegation against the petitioner is that on 06.01.2015 at 6 p.m., he beat the defacto complainant with an iron pipe repeatedly, thereby he sustained the fracture of the bone of his right hand and he sustained injuries on his left shoulder, left forearm etc.

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

5. The contents of the CD *prima facie* reveal the complicity of the petitioner. The learned counsel for the

petitioner has put forward a contention that the defacto complainant had suffered a motor accident and he has made use of the injuries suffered by him in the said motor accident as the injuries suffered by him in assault, in order to implicate the petitioner in a false case. The said version is devoid of merits. From the wound certificate, which finds a place among the records in the CD, it seems that he was examined by the Doctor at 6.20 p.m. on 06.01.2015 and he had stated before the Doctor that he had sustained the injuries in the assault at 6 p.m. The allegations against the petitioner are very grave and serious. The investigation of this case is not over. Considering the seriousness of the allegations against the petitioner and the present stage of the investigation, I am of the view that this is not a fit case wherein anticipatory bail can be granted to the petitioner. At the same time, no criminal antecedents have been reported against the petitioner. Considering the said aspect, I am of the view that an opportunity can be granted to the petitioner to surrender before the investigating officer in order 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 court below, 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

DSV/25/2/15

// True Copy //

P.A. To Judge