

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

Bail Appl..No. 833 of 2015

CRIME NO. 177/2015 OF KALAMASSERY POLICE STATION, ERNAKULAM
.....

PETITIONER(S)/ACCUSED:

**ABDUL SATHAR ISMAYIL, AGED 62 YEARS,
S/O.MUHAMMED KASIM, 15/532, FLAT NO 16C,
TRINITY CASTLE, TOLL GATE, KALAMASSERY,
ERNAKULAM DISTRICT.**

BY ADV. SRI.M.J.SANTHOSH

RESPONDENT(S)/COMPLAINANT:

**SUB INSPECTOR OF POLICE,
KALAMASSERY POLICE STATION,
REPRESENTED BY STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
19-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

B. KEMAL PASHA, J.

.....
B.A. No.833 2015
.....

Dated this the 19th day of March, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.177/2015 of Kalamassery Police Station registered for the offences punishable under Sections 324 and 326 IPC.

3. It is alleged that while the annual day celebrations of 'Trinity Four Cousin Apartment' at the Thrikkakkara North Village was going on, the petitioner reached there in a drunken mood and caused disturbances. He was asked to move away by the de facto complainant

and he was sent out of the premises. It seems that on account of the said enmity, at 9.45 p.m. on 31.01.2015, he attacked the de facto complainant with a metal rod having a length of 1½ feet and he severely beat the de facto complainant. The de facto complainant was beaten on his face, thereby causing an injury on his nose. When he ward off the attack, he suffered total amputation of his right little finger.

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

5. The learned counsel for the petitioner has pointed out that the petitioner is a 62 year old man and he is not involved in the incident. At the same time, the contents of the CD, *prima facie*, reveal the complicity of the petitioner. The wound certificate and the statement furnished by the doctor, who attended the de facto complainant, show that the de facto complainant has sustained very serious injuries including grievous hurt. He suffered amputation of the right

little finger. The allegations against the petitioner are very grave and serious. Considering the seriousness of the allegations against the petitioner, the custodial interrogation of the petitioner is required for the continued investigation of this case. Matters being so, I am of the view that the petitioner is not entitled to the discretionary relief of anticipatory bail.

6. The learned counsel for the petitioner seeks for an opportunity to the petitioner 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 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)

aks/19/03

[True copy]

P.A. to Judge