

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.839 of 2015

(CRIME NO.46/2015 OF PUDUKKAD POLICE STATION).

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PETITIONER/2ND ACCUSED:

**SYAMKUMAR,AGED 26,S/O.SASI,
VALIYAVEETIL HOUSE,KALLOOR,
PALAKKAPARAMBU,THRISSUR DISTRICT.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.N.L.BITTO**

RESPONDENT/STATE OF KERALA/COMPLAINANT:

**THE STATE OF KERALA,
REP. BY THE SUB INSPECTOR OF POLICE,
PUDUKKAD POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM-682031.**

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:**

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B.KEMAL PASHA, J.

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B.A. No. 839 of 2015

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Dated this the 25th day of February, 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.46/2015 of the Pudukkad Police Station, registered for the offences punishable under Sections 452, 341, 323, 324, 326 and 506(i) read with Section 34 IPC.

3. The allegation against the petitioner and the other accused is that on 03.01.2015 at 7.30 p.m., they trespassed into the toddy shop, of which, the de facto complainant was the manager, and entertained a quarrel with him. Thereafter, they attacked the de facto complainant, who was standing in front of the toddy shop. It is alleged that A1 and A2 beat the de facto complainant with iron pipes on his legs and also beat on other portions of his body repeatedly. A3 and A4 slapped and stamped the de facto complainant. The de facto complainant sustained comminuted

fracture of tibia right for which interlocking and nailing had to be done.

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

5. The allegations against the petitioner are very grave and serious. The contents of the C.D. *prima facie* reveal the complicity of the petitioner. The learned counsel for the petitioner has pointed out that no criminal antecedents have been reported against the petitioner. The learned Public Prosecutor has pointed out that the iron pipe made use of by the petitioner 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. Considering the seriousness of the allegations against the petitioner, and the present stage of investigation, I am of the view that the petitioner is not entitled to the discretionary relief of anticipatory bail. At the same time, considering the fact that no criminal antecedents have been reported against him, I am of view

that he can be granted an opportunity 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

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P.A to Judge