

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

Bail Appl..No. 1041 of 2015 ()

CRIME NO. 185/2015 OF PAYYANNUR POLICE STATION , KANNUR DISTRICT

PETITIONERS/ACCUSED NO 1 & 2 :

- 1. SUBHASH.C., AGED 35 YEARS,
S/O.RAVEENDRAN, T.P HOUSE, RAMANTHALI AMSOM,
KUNNARU, RAMANTHALI P.O, KANNUR DISTRICT.**
- 2. VINEETH.K, AGED 35 YEARS,
S/O.VELAYUDHAN, KOYYODAN (H) RAMANTHALI AMSOM,
KUNNARU RAMANTHALI P.O, KANNUR DISTRICT**

**BY ADV. SRI.ZUBAIR PULIKKOOL
SRI.BINU.P.S.**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. LALIZA.T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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B. KEMAL PASHA, J.

.....
B.A. No.1041 of 2015
.....

Dated this the 23rd day of March, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.1 and 2 in Crime No.185/2015 of Payyannur Police Station registered for the offences punishable under Sections 341, 323, 324, 326 and 308 read with Section 34 IPC.

3. The allegation against the petitioners and other accused is that, on 04.02.2015 at 8.30 p.m., the 1<sup>st</sup> accused deliberately knocked down the de facto complainant with his autorickshaw bearing registration No.KL-59J-6127 and thereafter, A3 and A4 caught hold of the de facto complainant, thereby enabling the 2<sup>nd</sup> accused to hit him on his face with a granite stone, thereby causing fracture of one of the teeth of the de facto complainant.

4. Heard the learned counsel for the petitioners and

the learned Public Prosecutor.

5. The learned counsel for the petitioners has pointed out that A3 and A4 in the matter were enlarged on bail. The fact that A3 and A4 were arrested, detained and subsequently enlarged on bail does not entitle the petitioners to the discretionary relief of anticipatory bail. It seems that deliberately the de facto complainant was knocked down by using the autorickshaw of the 1<sup>st</sup> petitioner and thereafter, the 2<sup>nd</sup> petitioner inflicted injuries on the face of the de facto complainant by hitting him with granite stone, thereby causing fracture of his tooth. 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, when no criminal antecedents have been reported against the petitioners, I am of the view that, while dismissing this bail application, an opportunity can be granted 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)**

aks/23/03

*// True Copy //*

*PA to Judge*