

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.1065 of 2015

(CRIME NO.127/2015 OF BEKAL POLICE STATION,KASARGOD).

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PETITIONER/ACCUSED:

**SAINUL ABIDEEN.K.M,AGED 24 YEARS,
S/O.MUHAMMED KUNHI,POOMKKAVANAM MANZIL,
MANIKOTH P.O.,KANHANGAD,KASARAGOD DISTRICT.**

BY ADV.SRI.B.V.JOY SANKER

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM - 682 031.**
- 2. SUB INSPECTOR OF POLICE,
BAKEL POLICE STATION,
KASARAGOD DISTRICT - 671 316.**

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.

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B.A. No. 1065 of 2015

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Dated this the 23rd day of March, 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the 1st accused in Crime No.127/2015 of the Bakel Police Station, presently pending investigation, for the offences under Sections 143, 147, 148, 323, 342, 324, 326, 364A and 109 read with Section 149 IPC.

3. The allegation against the petitioner and the other accused is that on 14.2.2015 at 2.45 a.m., he along with the other accused chased the car being driven by the de facto complainant by another car, obstructed the car being driven by the de facto complainant, dragged him out and severely beat him. After beating him up, he was dragged into the car in which the petitioner was travelling. He was taken to a distant place where he was confined in a room. He was tied to a window and was severely beaten up with iron rods, thereby causing nasal bone fracture and

also the fracture of the bone of his shoulder along with other serious injuries. Thereafter, a ransom of ₹4,50,000/- or his car was claimed for his release.

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

5. The contents of the C.D *prima facie* reveal the complicity of the petitioner. The allegations against the petitioner are very grave and serious. Over and above this case, the petitioner is involved in another case in which an offence under Section 308 IPC is involved. The learned counsel for the petitioner has pointed out that the de facto complainant is a habitual offender. It is true that four crimes have been registered against the de facto complainant as he was engaged in illegal sand mining. The fact that the de facto complainant has criminal antecedents on his part does not entitle the petitioner to the discretionary relief of anticipatory bail. Considering the seriousness of the allegations against the petitioner, I am satisfied that he 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

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//True copy//

P.A to Judge