

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

Bail Appl..No. 1079 of 2015 ()

CRIME NO. 28/2015 OF KENICHIRA POLICE STATION, WAYANAD DISTRICT

PETITIONER/ACCUSED :

**MINI,
AGED 39 YEARS
D/O.KARUNAKARAN,
KAVALATHINKATTIL HOUSE
MANALVAYAL P.O., IRULAM,
SULTHAN BATHERY TALUK
WAYANAD DISTRICT.**

**BY ADVS.SRI.A.V.JAMES
SRI.MATHEWS JOSEPH**

RESPONDENT/COMPLAINANT :

**THE STATE OF KERALA,
THROUGH THE SUB INSPECTOR OF POLICE
KENICHIRA POLICE STATION IN CR.28/2015
REP. 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 01-04-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

B. KEMAL PASHA, J.

.....
B.A. No.1079 of 2015
.....

Dated this the 1st day of April, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.28/2015 of Kenichira Police Station, Wayanad district, registered for the offence punishable under Section 308 IPC.

3. The petitioner is a widow, whose husband died around 7 years back. She has a son presently aged around 16 born in her wedlock with her husband. As she was allegedly leading an immoral life, the boy was taken by the brother of the late husband of the petitioner, and the boy has been living along with him. Even though she has got a property of her own, the building in which presently she is residing is put up in another property belongs to her husband. She has not permitted the boy to enter into the house. A complaint was preferred by the boy before the

police. When the police came for an enquiry, the younger brother of the husband of the petitioner was also present at the courtyard of the house. In the presence of the police, it is alleged that she inflicted a cut aimed at the neck of the de facto complainant with a chopper, which was timely warded off by the policemen, thereby he could escape.

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

5. It seems that the petitioner has gone into a form of marriage subsequently with another man. The learned counsel for the petitioner submits that, than man, who is her second husband, has taken away her entire gold ornaments and vanished from the scene and he is not living with the petitioner.

6. The contents of the CD *prima facie* reveal the complicity of the petitioner. The Village Officer has reported that the property in which the building is situated is not the property covered by the title deed executed in favour of the petitioner. When the said building is situated in another property belongs to her husband, the boy has an equal right

in the building and she has no right or authority to restrain the boy from entering in the building. No criminal antecedents have been reported against the petitioner. Considering the facts and circumstances of the case and the present stage of the investigation, I do not think that the custodial interrogation of the petitioner is required for the continued investigation of this case. Matters being so, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioner on conditions.

7. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioner, is directed to enlarge the petitioner on bail in the event of her arrest, on her executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

*(i) The petitioner shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Wednesdays and Saturdays commencing from 08.04.2015 for a period of six months.*

*(ii) The petitioner shall not make any impediments for the entry of the boy in the house and the peaceful residence of the boy at the house.*

*(iii) The petitioner shall not permit any person other than the boy and the petitioner to reside in the house.*

*(iv) The petitioner shall not tamper with the evidence or influence witnesses.*

*(v) The petitioner shall make herself available for interrogation as and when required by the investigating officer.*

*(vi) The petitioner shall not involve in any offence while on bail.*

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

Sd/-  
**(B.KEMAL PASHA, JUDGE)**

aks/01/04

//True copy//

PA to Judge.