

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

Bail Appl..No. 1109 of 2015 ()

CRIME NO. 115/2015 OF CHERPU POLICE STATION, THRISSUR DISTRICT

APPLICANT/IST ACCUSED :

**BIJU N.B., AGED 33 YEARS
S/O. BHASKARAN, NEDUNGATTIL HOUSE, CHERUVATHERY
CHEVOOR P.O., THRISSUR DISTRICT.**

**BY ADVS.SRI.SANTHOSH P.PODUVAL
SMT.R.RAJITHA
SRI.K.D.SREEVISAKH**

RESPONDNET/STATE :

**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 09-03-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

B.KEMAL PASHA, J.

.....
Bail Application No. 1109 of 2015

.....
Dated this the 9th day of March, 2015.

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the first accused in Crime No.115/2015 of Cherpu Police Station registered for the offences punishable under Sections 448,341,323,324 and Section 354 read with Section 34 IPC.

3. The allegation against the petitioner and the other accused is that on 4-2-2015 at 10.30 p.m, they committed trespass into the sit out of the house of the de-facto complainant and the first accused inflicted a blow on his head with an iron pipe, thereby causing an injury. It is

alleged that A2 to A4 kicked and stamped the de-facto complainant. It is further alleged that the petitioner caught hold of the hair of the wife of the de-facto complainant, pulled her down and dragged her through the courtyard.

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

5. The learned Counsel for the petitioner has argued that the petitioner had gone to the spot only as a driver of the car by which the other accused was travelling and the other accused who are relatives of the de-facto complainant were engaged a mediation talk, which culminated in a quarrel. In the midst of the quarrel, a flower pot was taken and thrown on the car of the petitioner thereby the windshield of the car was broken. It is also argued that the father of the petitioner died last week and the petitioner has to perform the obsequies in connection with the death.

6. It seems that all the main over acts are alleged against the petitioner. This is not a fit case wherein

anticipatory bail can be granted to the petitioner. At the same time, by considering all the other circumstances pointed out by the learned counsel for the petitioner and in the absence of any criminal antecedents on his part, I am of the view that an opportunity can be granted 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

Bail Application No. 1109 of 2015 4

Prosecutor also. The court below shall take into consideration the above observations, while disposing the application.

B.KEMAL PASHA, JUDGE

smm

