

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

Bail Appl..No. 1155 of 2015 ()

CRIME NO. 332/2015 OF ALUVA EAST POLICE STATION, ERNAKULAM DISTRICT

PETITIONER/1ST ACCUSED:-

**BINU, AGED 22 YEARS, S/O.NARAYANAN,
PATHRAKADAVIL HOUSE, ERUMATHALA P.O.,
ALUVA.**

BY ADV. SMT.SMITHA C.GOPI

RESPONDENT(S)/STATE/COMPLAINANT :

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT, ERNAKULAM - 682 031.**
- 2. SUB INSPECTOR OF POLICE,
ALUVA EAST POLICE STATION, PIN - 683 101.**

BY PUBLIC PROSECUTOR SMT. LALIZA.T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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B.KEMAL PASHA, J.

B.A.No.1155 of 2015 D

Dated this the 18th day of March 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the first accused in Crime No.332/2015 of Aluva East Police station registered for the offences punishable under Sections 143, 148, 341, 452 and 326 read with Section 149 of the I.P. C.

3. The allegation against the petitioner and other accused is that on 28.1.2015 at 11.30 p.m., they formed themselves into an unlawful assembly armed with deadly weapons like iron pipes and committed house trespass into the house of the *defacto complainant* and attacked the *defacto complainant*. It is alleged that the petitioner beat on the head of the *defacto complainant* with an iron pipe, which was warded off by the *defacto complainant*

with his left hand, thereby he sustained a fracture of the bone of his finger. He sustained injuries on his left arm also.

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

5. The contents of the CD, *prima facie*, reveal the complicity of the petitioner. Since serious allegations are there in the matter as against the petitioner, I am of the view that this is not a fit case wherein anticipatory bail can be granted to the petitioner. Custodial interrogation of the petitioner is required for the continued investigation of this case. No criminal antecedents have been reported against the petitioner. Considering the said aspect, 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 Prosecutor also.

Sd/-
B.KEMAL PASHA,
JUDGE

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PA to Judge