

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. 1178 of 2015

CRIME NO. 78/2015 OF VIDYANAGAR POLICE STATION , KASARAGOD DISTRICT

PETITIONER(S)/ACCUSED 1 TO 3 :

- 1. ABDUL RAHMAN K.M, AGED 35 YEARS,
S/O.MOIDEEN KUNHI, THAYAL NAINMARMoola,
MUTTATHODI VILLAGE, KASARAGOD DISTRICT. (A1)**
- 2. AHAMMADALI K.M, AGED 30 YEARS,
S/O.MOIDEEN KUNHI, THAYAL NAINMARMoola,
MUTTATHODI VILLAGE, KASARAGOD DISTRICT. (A2)**
- 3. MOIDEEN SHEBEEB @ SHEBEEB K.M, AGED 22 YEARS,
S/O.IBRAHIM, SINAN MANZIL, THAYAL NAINMARMoola,
MUTTATHODI VILLAGE, KASARAGOD DISTRICT. (A3)**

**BY ADVS.SRI.T.K.VIPINDAS
SRI.K.V.SREE VINAYAKAN
SRI.K.M.MUHAMMED HUSSAIN**

RESPONDENT(S)/STATE :

**THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM REPRESENTING S.H.O.VIDYANAGAR POLICE STATION,
KASARAGOD DISTRICT - 671 121.**

**R1 BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH
BY ADV. SRI.K.P.HARISH (DEFACTO COMPLAINANT)**

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

Msd.

B. KEMAL PASHA, J.

.....
B.A. No.1178 2015
.....

Dated this the 18th day of March, 2015

ORDER

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Petition filed under Section 439 Cr.P.C.

2. Petitioners are accused Nos.1 to 3 respectively in Crime No.78/2015 of Vidyanagar Police Station, Kasaragod district, registered for the offences punishable under Sections 143, 147, 148, 341, 323, 324 and 308 read with Section 149 of the Indian Penal Code.

3. The allegation against the petitioners and other accused is that on 16.02.2015 at 10.30 p.m., they formed themselves into an unlawful assembly, armed with deadly weapons, and wrongfully restrained the de facto complainant and his younger brother and repeatedly beat them with iron rods, thereby causing serious injuries. The 1st petitioner was arrested on 19.02.2015 and petitioners 2 and 3 were arrested on 23.02.2015 and thereafter, they

have been in custody.

4. Heard learned counsel for the petitioners, learned counsel for the de facto complainant and the learned Public Prosecutor.

5. The contents of the CD, *prima facie*, reveal the complicity of the petitioners. It seems that the petitioners have obtained the assistance of A4 and A5, who are outsiders, also with a view to attacking the de facto complainant and his younger brother. It seems that the petitioners were in loggerheads with the father of the de facto complainant and it was out of that enmity, unnecessarily the de facto complainant and his brother were attacked. The learned counsel for the de facto complainant has pointed out that A4 and A5 are hired goondas brought by the petitioners to stage the attack. The de facto complainant has sustained fracture of one of the metacarpals also and an offence under Section 326 IPC also is attracted. No criminal antecedents have been

reported against the petitioners. The investigation as far as the petitioners are concerned, is practically over. The continued detention of the petitioners is not required for the continued investigation of this case. Having regard to the period undergone by the petitioners in custody and the present stage of investigation, I am of the view that the petitioners can be enlarged on bail by imposing stringent conditions by taking note of the safety and security of the de facto complainant and his brother, who are young boys.

6. In the result, this Bail Application is allowed and the petitioners shall be enlarged on bail on each of them executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties for the like sum each to the satisfaction of the concerned Judicial First Class Magistrate's Court, and subject to the following terms and conditions:-

(i) The petitioners shall report before the Investigating Officer in between 9 a.m. and 11 a.m. on all Wednesdays and Saturdays commencing

from 25.03.2015 for a period of six months.

(ii) Except for observing condition No.(i) above, the petitioners shall not enter the local limits of Vidyanagar Police Station for a period of six months from today.

(iii) The petitioners shall not tamper with the evidence or influence witnesses.

(iv) The petitioners shall make themselves available for interrogation as and when required by the Investigating Officer.

(v) The petitioners 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/18/03

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PA to Judge