

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

Bail Appl..No.1188 of 2015

(CRIME NO.234/2015 OF NEMOM POLICE STATION,THIRUVANANDAPURAM).

..

PETITIONERS/ACCUSED 1 TO 3:

- 1. RAJEEVAN ASARI @ SHAJI,AGED 34 YEARS,
S/O.RAJAN ASARI,RESIDING AT VALIYAKANTAM
THALACKAL VEEDU,CHATTUMUKKU,NEMON (P.O.),
THIRUVANANTHAPURAM DISTRICT,PIN - 695 020.**
- 2. MAHESH.R,AGED 31 YEARS,S/O.RAMACHANDRAN,
RESIDING AT AYANIARATHALACKAL VEEDU,
CHATTUMUKKU,NEMON (P.O.),
THIRUVANANTHAPURAM DISTRICT,PIN - 695 020.**
- 3. SATHEESAN ASARI @ KUTTAN,AGED 37 YEARS,
S/O.RAJAN ASARI,RESIDING AT VALIYAKANTAM
THALACKAL VEEDU,CHATTUMUKKU,NEMON (P.O.),
THIRUVANANTHAPURAM DISTRICT,PIN - 695 020.**

**BY ADVS.SRI.GOPAKUMAR R.THALIYAL
SRI.R.B.RAJESH**

RESPONDENT/STATE:

**STATE OF KERALA,REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM,PIN - 682 031.**

BY PUBLIC PROSECUTOR SRI.SREEJITH V.S.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

pk

B.KEMAL PASHA, J.

B.A.No.1188 of 2015 C

Dated this the 11th day of March 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are the accused in Crime No.234/2015 of Nemom Police Station, Thiruvananthapuram registered for the offences punishable under Sections 294(b), 308, 323 and 341 read with Section 34 of the I.P. C.

3. The allegation against the petitioners is that on 10.2.2015 at 9.15 p.m., they wrongfully restrained the *defacto complainant* on the road and A2 caught hold of his neck and abused him and fisted on his chest. A1 hit on the forehead of the *defacto complainant* with a granite stone, thereby causing injuries. When he fell down, he was slapped, fisted and stamped by the

petitioners.

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

5. The copy of the wound certificate of the *defacto complainant* produced by the Investigating Officer, shows that the *defacto complainant* sustained a lacerated wound on his right eyebrow, along with other injuries on his face and all over his body. At the same time, the main overt acts are alleged against A1, who is the the 1st petitioner herein. There is no allegation that A2 and A3 have made use of any weapon. Considering the said aspect, I am of the view that anticipatory bail can be granted to petitioners 2 and 3. At the same time, considering the seriousness of the allegations against first petitioner, I am of the view that he is not entitled to the discretionary relief of anticipatory bail.

6. In the result, this bail application is allowed in part and the investigating officer or such other police officer, who is

conducting the arrest of the petitioners 2 and 3, is directed to enlarge these petitioners on bail in the event of their arrest on each of them 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 said petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Wednesdays and Saturdays, commencing from 18.3.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

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

(iii) The said petitioners shall make themselves available for interrogation as and when required by the investigating officer.

(iv) The said 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.

As far as the first petitioner is concerned, this bail application is dismissed. At the same time, if so advised, the first petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the first petitioner, effect recovery if any, and conduct the investigation and produce the first petitioner without delay before the concerned Judicial First Class Magistrate's Court, where the first 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

dl

// TRUE COPY //

PA to Judge