

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

Bail Appl..No. 1198 of 2015

CRIME NO. 160/2015 OF AROOR POLICE STATION , ALAPPUZHA DISTRICT

PETITIONER(S)/1ST ACCUSED :

**PRAKASAN.K, AGED 54 YEARS,
S/O.KUNJAN, APPU NIVAS, PERUMBALAM P.O,
CHERTHALA.**

**BY ADVS.SRI.V.P.MOHAMMED NIYAZ
SRI.M.P.MUHAMMAD FAZIL
SRI.K.RONALD JOSE
SMT.AUGNES LOVELY FRANCIS**

RESPONDENT(S)/STATE & COMPLAINANT :

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
AROOR POLICE STATION, ALAPPUZHA DISTRICT- 688 534.**

BY PUBLIC PROSECUTOR SRI.SREEJITH V.S

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 12-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

B.KEMAL PASHA, J.

B.A.No.1198 of 2015 D

Dated this the 12th day of March 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the first accused in Crime No.160/2015 of Aroor police station, Alappuzha district registered for the offences punishable under Sections 294(b), 326, 323 and 340 read with Section 34 of the I.P. C.

3. On 17.2.2015 at 5.30 p.m., the *defacto complainant*, who is a Doctor by profession and a Gastro-enterologist, working at Aster Medicity, Ernakulam was driving a car and was about to stop the car in front of the Indian Coffee House, at Aroor. A1, who

was working as a home-guard, who is the petitioner herein, was riding on motor bike bearing registration number KL-32-A-7375 with a pillion rider. The motor bike was ridden through the left side of the car and immediately, he stopped the motor bike in front of the car, got down from it with his helmet, and approached the doctor, who was at the driving seat of the car. When the glass of the door was lowered by the *defacto complainant*, without any provocation, the petitioner beat on his face with his helmet, thereby his right upper incisor tooth was broken.

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. Even though the learned counsel for the petitioner has pointed out that the incident was reported to the police only on 20.2.2015, it seems that the *defacto complainant* was examined by the Doctor at the General Hospital Ernakulam at 7.10 p.m. on

17.2.2015 itself. The said delay is of no consequence at all. The allegations against the petitioner are very grave and serious. Unnecessarily, the person who was driving a car, that was too a Doctor, was attacked and grievous hurt was caused to him. Matters being so, the petitioner is not entitled to the discretionary relief of anticipatory bail.

6. The learned counsel for the petitioner seeks for an opportunity to the petitioner to surrender before the investigating officer and to co-operate with the investigation.

7. 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

dl

// TRUE COPY //

PA to Judge