

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. 1200 of 2015 ()

CRIME NO. 172/2015 OF PARASALA POLICE STATION, THIRUVANANTHAPURAM.

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PETITIONERS/ACCUSED NO. 1 TO 3:

- 1. JOY, S/O. SOMAN,
AGED 28 YEARS, KONATHUVILA PUTHEN VEEDU,
VATTAVILA P.O, CHENKAL VILLAGE, TRIVANDRUM.**
- 2. SURESH, S/O. RAJENDRAN,
AGED 25 YEARS, KUNNAM POTTA VEEDU,
VATTAVILA P.O, CHENKAL VILLAGE, TRIVANDRUM.**
- 3. SATHEESH, S/O. RAJENDRAN,
AGED 27 YEARS, KUNNAM POTTA VEEDU,
VATTAVILA P.O, CHENKAL VILLAGE, TRIVANDRUM.**

BY ADV. SRI.S.MOHAMMED AL RAFI.

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

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:**

rs.

B.KEMAL PASHA, J.

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B.A. No.1200 of 2015

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Dated this the 11th day of March, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. The petitioners are A1 to A3 in Crime No.172 of 2015 of the Parasala Police Station, registered for the offences punishable under Sections 294(b), 427, 323 and 308 read with Section 34 of the Indian Penal Code.

3. The allegation against the petitioners is that on 07.02.2015 at 8 p.m., they smashed the gate of the house of the elder brother of the defacto complainant and on seeing it the defacto complainant intervened and questioned. At that time, it is alleged that the 1st petitioner inflicted a cut on the head of the defacto complainant with a chopper, thereby causing a serious injury. When the elder brother of the

defacto complainant intervened for the rescue of the defacto complainant, the 1st petitioner wielded the chopper, thereby causing injuries on the right wrist and other portions of the body of the defacto complainant. It is alleged that petitioners 2 and 3 have kicked down the defacto complainant and severely slapped and stamped him.

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

5. The contents of the CD reveal that all the main overt acts are alleged against the 1st accused, who is the 1st petitioner herein. The learned Public Prosecutor has pointed out that the 1st accused is involved in Crime No.337 of 2013 of the Parasala Police Station, registered for the offence under Section 27 of the Arms Act, which is presently pending as C.C.No.567 of 2014 before the Judicial First Class Magistrate's Court-II, Neyyatinkara. Over and above it, he is an accused in Crime No.1454 of 2014 of the Parasala Police Station for serious offences. Considering the serious criminal background of the 1st petitioner and the seriousness of the allegations against him in this case, I am of the view that he is

not entitled to the discretionary relief of anticipatory bail. At the same time, there is no allegation that petitioners 2 and 3 have made use of any weapons. Considering the said aspect, I am of the view that their custodial interrogation is not required for the continued investigation of this case. Matters being so, anticipatory bail can be granted to petitioners 2 and 3.

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 petitioners 2 and 3, is directed to enlarge petitioners 2 and 3 on bail in the event of their arrest on each of them executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties for the like sum each to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

- (i) Petitioners 2 and 3 shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Wednesdays and Saturdays commencing from 18.03.2015 for a period of three months or till the filing of the final report in this case,

whichever is earlier.

(ii) Petitioners 2 and 3 shall not tamper with the evidence or influence witnesses.

(iii) Petitioners 2 and 3 shall make themselves available for interrogation as and when required by the investigating officer.

(iv) Petitioners 2 and 3 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.

7. The learned counsel for the petitioners seeks for an opportunity to the 1st petitioner to surrender before the investigating officer and to co-operate with the investigation.

8. This bail application, as far as the 1st petitioner is concerned, is dismissed. At the same time, if so advised, the 1st petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the 1st petitioner, effect recovery if any, and conduct the investigation and produce the 1st petitioner without delay before the court below, where the 1st 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

DSV/11/3/15

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P.A. To Judge