

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

Bail Appl..No. 1235 of 2015

**CRIME NO. 55/2015 OF MULANTHURUTHI POLICE STATION,
ERNAKULAM DISTRICT**

PETITIONER(S)/ACCUSED :

**SHAMEER, S/O.SAINUDHEEN, AGED 34 YEARS,
NERIPARAYIL HOUSE, AMBALLOOR,
KANJIRAMATTOM, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.SALIM V.S.
SRI.SHANAVAS.S
SRI.H.NUJUMUDEEN
SRI.P.V.JEEVESH**

RESPONDENT(S)/COMPLAINANT :

**STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
MULANTHURUTHY THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN- 682 031.**

BY PUBLIC PROSECUTOR SMT.LALIZA.T.Y

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

B.KEMAL PASHA, J.

.....
B.A. No.1235 of 2015
.....

Dated this the 30th day of March, 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.55/2015 of the Mulanthuruthy Police Station, Ernakulam District, registered for the offences punishable under Sections 447, 323, 326 and 506(1) read with Section 34 IPC.

3. The allegation against the petitioner is that on 16.1.2015 at 2.30 p.m., he parked his autorikshaw in a portion of the property of the de facto complainant without his consent. The same was questioned by the de facto complainant. It is alleged that the petitioner with an iron pipe attacked the de facto complainant and he beat the de facto complainant, thereby he sustained a fracture of one of his metacarpals. When the father and mother of the de facto complainant intervened for his rescue, they were also beaten up.

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

5. The contents of the C.D *prima facie* reveal the complicity of the petitioner. This was the case wherein he went to the property of the defacto complainant and parked his autorikshaw and when it was questioned, they were attacked and a grievous hurt was caused. The learned counsel for the petitioner has pointed out that the petitioner had also sustained injuries. It seems that some trivial injuries had occurred to the petitioner. The allegations against the petitioner are very grave and serious. Considering the seriousness of the allegations against the petitioner, I am of the view that this is not a fit case wherein anticipatory bail can be granted. At the same time, no criminal antecedents have been reported against the petitioner. By 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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//True copy//

PA to Judge