

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

Bail Appl..No. 1291 of 2015

CRIME NO. 93/2015 OF KONDOTTY POLICE STATION, MALAPPURAM DISTRICT.
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PETITIONER(S)/ACCUSED:

1. SHIHAB M, AGED 32 YEARS,
S/O.SULAIMAN, PALAPPARAMBIL HOUSE,
VALIYAPARAMBA - P.O, ANTHIYOORKUNNU AMSOM,
KONDOTTY TALUK, MALAPPURAM DISTRICT.
2. SUNIL AREEKKATT, AGED 30 YEARS,
S/O.BALAN, CHOYAKKATT HOUSE,
ANTHIYOORKUNNU AMSOM DESOM & P.O.,
KONDOTTY TALUK, MALAPPURAMDISTRICT.
3. JITHESH P, AGED 34 YEARS,
S/O.APPUKKUTTAN, CHOYAKKATT HOUSE,
ANTHIYOORKUNNU AMSOM DESOM & P.O.,
KONDOTTY TALUK, MALAPPURAM DISTRICT.

BY ADVS.SRI.P.VENUGOPAL (1086/92)
SMT.T.J.MARIA GORETTI

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
(REPRESENTING SUB INSPECTOR OF POLICE,
KONDOTTY POLICE STATION - CRIME NO.93/2015).**

BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 25-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

B.SUDHEENDRA KUMAR, J.

Bail Application No.1291 of 2015 C

Dated this the 25th day of June 2015

O R D E R

The petitioners are accused in Crime No.93 of 2015 of Kondotty Police Station registered under Sections 341, 323, 324 and 308 read with Section 34 of the Indian Penal Code.

2. The petitioners have filed this application under Section 438 of the Code of Criminal Procedure.

3. The prosecution allegation is that on 16.01.2015 at about 9.30 p.m., the petitioners had wrongfully restrained the de facto complainant and beaten him with iron rod and stick causing injuries on him.

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

5. The learned Public Prosecutor has opposed the application and submitted that no wound certificate is available in the case diary to indicate the nature of injuries sustained by the de facto complainant. It is not discernible

as to why the wound certificate is not appended to the case diary, if there is any such wound certificate, as it is mandatory that the case diary should contain all materials relating to the investigation. It has been submitted by the learned Public Prosecutor that the petitioners are not involved in any other offence of similar nature. It has been further submitted by the learned Public Prosecutor that the incident in this case occurred, when the petitioners caused nuisance when a procession of a political party was going on. The only non-bailable offence alleged against the petitioners is the offence under Section 308 of IPC. Considering the facts and circumstances of the case, including the fact that the petitioners are first time offenders, I am inclined to grant the relief under Section 438 Cr.P.C., in favour of the petitioners.

In the result, this application stands allowed and the respondent is directed to release the petitioners on bail in the event of their arrest in connection with Crime No.93 of 2015 of Kondotty Police Station on condition of each of the petitioners executing a bond for Rs.30,000/- (Rupees Thirty thousand only) each, with two solvent sureties each, each for

the like sum to the satisfaction of the Sub Inspector of Police, Kondotty Police Station before whom the petitioners shall surrender within two weeks from today and subject to the following conditions:

- i. The petitioners shall report before the Investigating Officer on every Monday between 9 a.m. and 11 a.m. for six months or till the filing of the final report, whichever is earlier.
- ii. The petitioners shall not intimidate or influence the witnesses or in any way tamper with the investigation.
- iii. The petitioners shall not get involved in any offence during the pendency of this case.

Sd/-
B.SUDHEENDRA KUMAR,
JUDGE

AMV/25/06/

/TRUE COPY/

P.A.TO JUDGE