

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

Bail Appl..No. 1381 of 2015 ()

CRIME NO. 539/2014 OF ERNAKULAM CENTRAL POLICE STATION , ERNAKULAM

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PETITIONERS/ACCUSED:

- 1. AJITH SOMAN AGED 20 YEARS
S/O.SOMAN S, ALIYATH (H),
PONEKKARA ROAD,
AIMS P.O., COCHIN - 26 (ACCUSED NO. 5).**
- 2. AMAL KRISHNA N.P., AGED 22 YEARS,
S/O.PURUSHAN, NIKATHIL (H), NJARAKKAL P.O.
ERNAKULAM, PIN - 682 505 (ACCUSED NO. 7).**

**BY ADVS.SRI.R.ROHITH
SRI.SAYED MURTHALA THANGAL**

RESPONDENT/COMPLAINANT

**STATE OF KERALA,
REPRESENTED BY THE 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 18-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

B.KEMAL PASHA, J.

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B.A. No. 1381 of 2015

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Dated this the 18th day of March, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are A5 and A7 respectively in Crime No.539/2014 of Central Police Station, Ernakulam district, registered for the offences punishable under Sections 143, 147, 148, 323, 324 and 307 read with Section 149 of the Indian Penal Code.

3. The allegation against the petitioners and other accused is that on 20.03.2014 at 1.50 p.m., they attacked the de facto complainant and his friend. It is alleged that A1 inflicted a cut on the head of the de facto complainant with a chopper, A2 beat on his head with an iron rod and A3 beat with an iron rod below his left knee. When he fell down, A4 beat him with an iron chain. When the friend of the de facto complainant intervened for his rescue, he was also beaten up by A5 to A9 with iron rods and he was stamped and fisted.

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

5. The contents of the CD, *prima facie*, reveal the complicity of the petitioners. The allegations against the petitioners are very grave and serious. It has been pointed out that all the other accused have been arrested in the matter and later, they were enlarged on bail. The learned public Prosecutor has pointed out that the 2nd petitioner, who is the 7th accused, is involved in another crime also. The fact that the other accused have been arrested, detained and subsequently enlarged on bail, does not entitle the petitioners to the discretionary relief of anticipatory bail. Considering the seriousness of the allegations against the petitioners, I am satisfied that this is not a fit case wherein anticipatory bail can be granted.

6. The learned counsel for the petitioners seeks for an opportunity to the petitioners 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 petitioners may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioners, effect recovery if any, and conduct the investigation and produce the petitioners without delay before the concerned Judicial First Class Magistrate's Court, where the petitioners 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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P.A to Judge