

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

Bail Appl..No. 1448 of 2015 ()

CRIME NO. 153/2015 OF KOTTARAKKARA POLICE STATION,KOLLAM DISTRICT

PETITIONERS/ACCUSED NOS 2 & 3:

- 1. ARUN.S., AGED 25 YEARS, S/O.SUDARASANAN,
THEVANTAZHIKATHU VEEDU, VENDRAR P.O.,
KOTTARAKKARA.**
- 2. PRAVEEN, AGED 35 YEARS,
S/O.BAHULEYAN, ALUVILA VEEDU, KOTTATHALA P.O.,
KOTTARAKKARA, KOLLAM.**

**BY ADVS.SRI.O.V.MANIPRASAD
SRI.JOSE ANTONY**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
(THE SUB INSPECTOR OF POLICE,
KOTTARAKKARA POLICE STATION,
CRIME NO 153/2015 REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. LALIZA.T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 25-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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B.KEMAL PASHA, J.

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B.A.No.1448 of 2015

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Dated this the 25th day of March, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. The petitioners are A2 and A3 in Crime No.153 of 2015 of the Kottarakara Police Station, registered for the offences punishable under Sections 452, 324 and 294(b) read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act.

3. The allegation against the petitioners and the other accused is that on 19.01.2015 during night at 1.30 a.m., they kicked open the front door of the house of the defacto complainant and committed house trespass and thereafter A3, who is the 2nd petitioner herein, inflicted cuts on the right hand and right leg of the defacto complainant with a sword. It is

alleged that the other accused slapped the defacto complainant and abused him.

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 main overt acts are alleged against the 3rd accused, who is the 2nd petitioner herein. There is no allegation against the 2nd accused, who is the 1st petitioner herein, that he has made use of any weapon. Considering the lesser part allegedly played by the 1st petitioner in the incident, I am of the view that he can be granted anticipatory bail. At the same time, considering the seriousness of the allegations against the 2nd petitioner, I am of the view that he is not entitled to the discretionary relief of anticipatory bail.

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 the 1st petitioner, is directed to enlarge the 1st petitioner on bail in the event of his arrest on his executing a bond for ₹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) The 1st petitioner shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Wednesdays and Saturdays commencing from 01.04.2015 for a period of six months.

(ii) Except for observing condition No.(i) mentioned above, the 1st petitioner shall not enter the local limits of the Kottarakara Police Station for a period of six months from today.

(iii) The 1st petitioner shall not tamper with the evidence or influence witnesses.

(iv) The 1st petitioner shall make himself available for interrogation as and when required by the investigating officer.

(v) The 1st petitioner 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.

This bail application, as far as the 2nd petitioner is

concerned, is dismissed. The learned counsel for the petitioners seeks for an opportunity to the 2nd petitioner to surrender before the investigating officer and to co-operate with the investigation.

If so advised, the 2nd petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the 2nd petitioner, effect recovery if any, and conduct the investigation and produce the 2nd petitioner without delay before the court below, where the 2nd 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/25/3/15

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PA to Judge