

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. 1530 of 2015 ()

CRIME NO. 211/2015 OF PUDUKKAD POLICE STATION , TRISSUR.

APPLICANT/ACCUSED:

**RAVI P.V.,
AGED 43 YEARS,
S/O.VELAYUDHAN,
POOTHETTY HOUSE,
MUPLIYAM P.O.,
THRISSUR DISTRICT.**

**BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.V.C.SARATH
SRI.VIPIN NARAYAN**

RESPONDENT(S)/COMPLAINANT:

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

R 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:**

vmr

B.KEMAL PASHA, J.

.....
B.A. No. 1530 of 2015
.....

Dated this the 25th day of March, 2015

ORDER

Application filed under Section 438 of the Code of Criminal Procedure.

2. Petitioner is the accused in Crime No.211 of 2015 of the Pudukkad Police Station, Thrissur registered for the offences punishable under Sections 341 and 326 of the Indian Penal Code and Section 3(1)(x) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The allegation against the petitioner is that on 05.02.2015 at 1.30 p.m., the petitioner, on account of his prior enmity towards injured Sreenivasan, who is the younger brother of the defacto complainant, attacked him,

with a spade thereby inflicting serious injury on his head, which has resulted in the fracture of his parietal bone.

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

5. Originally, the crime was registered under Sections 341 and 326 IPC. It seems that presently the offence under Sections 3(1)(x) and 3(2)(v) of the SC/ST Act have also been incorporated through a report. When the said offences are also incorporated by alleging that the petitioner, who is not a member of any Scheduled Caste or Scheduled Tribe, has used force and violence towards the injured, who is a member of the Scheduled Caste, the provisions under Section 438 Cr.P.C. are not applicable to such a case in view of Section 18 of the SC/ST Act. Matters being so, the present application is not maintainable in view of the said bar contained under Section 18 of the SC/ST Act. Hence, this Bail Application is only to be dismissed.

6. The learned counsel for the petitioner seeks for

an opportunity 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.

B.KEMAL PASHA, JUDGE

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