

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

Bail Appl.No. 1549 of 2015

CRIME NO. 852/2014 OF KUMARAKOM POLICE STATION, KOTTAYAM
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PETITIONER(S):

1. PRASANTH, AGED 37,
S/O.PRASANNAVADANAN, CHOORAPPARAMBIL HOUSE,
NEAR BOAT JETTY, KUMARAKAM, KOTTAYAM DISTRICT.
2. SAJEEVAN, AGED 45,
S/O.SANKARAN, KONGINIKKARA HOUSE, BANKUPADI,
KUMARAKAM, KOTTAYAM DISTRICT.
3. SAHADEVAN, AGED 54,
S/O.DAMODARAN, THULASITHARA HOUSE, ARPPOOKKARA VILLAGE,
KOTTAYAM DISTRICT.
4. KANNAN AGED 27,
S/O.PONMANY, THEVALAKKATTUSSERY HOUSE,
KUMARAKAM VILLAGE, KOTTAYAM DISTRICT.
5. PRAVEEN, AGED 35,
S/O.PRASANNAVADANAN, CHOORAPPARAMBIL HOUSE,
NEAR BOAT JETTY, KUMARAKAM, KOTTAYAM DISTRICT.
6. PRASANNAVADANAN, AGED 68,
S/O.VELAYUDHAN, CHOORAPPARAMBIL HOUSE, NEAR BOAT JETTY,
KUMARAKAM, KOTTAYAM DISTRICT.
7. AJAYAGOSH, AGED 30,
S/O.PURUSHOTHAMAN, CHIRAKKADAVIL HOUSE,
KUMARAKAM VILLAGE, KOTTAYAM DISTRICT.

BY ADV. SRI.SHERRY J. THOMAS

RESPONDENT(S):

**STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KUMARAKAM POLICE STATION,
KOTTAYAM DISTRICT THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
26-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

B.KEMAL PASHA, J.

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B.A.No.1549 of 2015

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Dated this the 26th day of March, 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.1 to 7 in Crime No.852 of 2014 of Kumarakom Police Station pending investigation for the offences punishable under Sections 323,324,326 and 294(b) read with 34 of IPC.

3. The allegation against the petitioners and other accused is that on 3.10.2014 at 2 pm, they attacked the de facto complainant and his friends and relatives who were present for enjoying a tour at Kumarakom by availing the service of a house boat arranged by the 1st accused. A dispute has arisen with regard to the timing of the tour, which has resulted in a wordy altercation and it is alleged that the de facto complainant and the members of the tour party were attacked by the petitioners and the other accused. It is alleged that the 2nd accused beat the father of the de facto complainant with an iron rod which has resulted in the fracture of his left radius.

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

5. The contents of the C.D prima facie reveals the complicity of the petitioners. At the same time the main overt acts are alleged against the 2nd accused, who is the 2nd petitioner herein, who made use of an iron rod for causing grievous hurt to the father of the de facto complainant. The allegations against the 2nd petitioner are very grave and serious. As far as the other petitioners are concerned, no specific overt acts are alleged against them. 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. At the same time, anticipatory bail can be granted to other petitioners. Matters being so, I am of the view that this is a fit case where an opportunity can be granted to the 2nd petitioner to surrender before the Investigating Officer and to co-operate with the investigation.

6. 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 petitioners, is directed to enlarge the petitioners 1 and 3 to 7 on bail in the event of their arrest on

each of them executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) The said petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Thursdays and Mondays, commencing from 01.04.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The said petitioners shall not tamper with the evidence or influence witnesses.

(iii) The said petitioners shall make themselves available for interrogation as and when required by the investigating officer.

(iv) The said petitioners 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 petition, so far as it relates to the 2nd petitioner (A2), is dismissed. At the same time, 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 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

sj