

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

Bail Appl..No. 1999 of 2015 ()

CRIME NO. 177/2015 OF ELOOR POLICE STATION, ERNAKULAM DISTRICT.

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PETITIONERS/ACCUSED NOS. 1 TO 3:

- 1. PURUSHOTHAMAN, S/O. CHOTHI, AGED 43 YEARS,
THANTHONNIMUGAL HOUSE, N.A.D. P.O.,
ALUVA, ERNAKULAM DISTRICT.**
- 2. PUSHKARAN, S/O.CHOTHI, AGED 35 YEARS,
THANTHONNIMUGAL HOUSE, N.A.D. P.O.,
ALUVA, ERNAKULAM DISTRICT.**
- 3. RAJEEV, S/O.THANKAPPAN, AGED 32 YEARS,
PUTHUVAMoola HOUSE, B.M.C. P.O.,
THRIKKAKARA, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.SALIM V.S.,
SRI.SHANAVAS.S,
SRI.H.NUJUMUDEEN,
SRI.P.V.JEEVESH.**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
THROUGH S.H.O. ELOOR POLICE STATION,
ERNAKULAM DISTRICT, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN-682 018.**

BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 26-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

B.SUDHEENDRA KUMAR, J.

Bail Application No.1999 of 2015

Dated this the 26th day of June 2015

O R D E R

The petitioners are accused Nos.1 to 3 in Crime No.177 of 2015 of Eloor police station registered under Sections 323 and 326 read with Section 34 I.P.C.

2. The prosecution allegation is that on 15.3.2015 at 7.30 p.m., the petitioners attacked the *defacto complainant* causing injuries on him. The petitioners have filed this application praying for the relief under Section 438 Cr.P.C.

3. Heard.

4. The learned Public Prosecutor has no serious objection in allowing the application as regards the 2nd petitioner, who is the first accused in the crime. However, the learned Public Prosecutor has opposed the application as regards the third petitioner, who is the 2nd accused in the crime. The second accused in the crime, initially used a stick to inflict injuries on the *defacto complainant*. Thereafter, the second accused attacked the *defacto complainant* with a granite stone. The *defacto complainant* sustained injuries including head injuries and fracture of the right arm due to the attack by the 2nd accused. It has been submitted by the learned counsel for the petitioners that the first petitioner, who is the 3rd accused in the crime, had been already arrested by the police. It appears that the

second petitioner, who is the first accused in the crime, did not use any weapon to inflict injuries on the *defacto complainant*. Considering the facts and circumstances of the case, including the nature of allegations raised against the petitioners, I am inclined to grant the relief under 438 Cr.P.C. in favour of the second petitioner, who is the first accused in the crime. The third petitioner, who is the second accused in the crime, used stick and granite stone to inflict injuries on the *defacto complainant*. Considering the facts and circumstances of the case, I am of the view that an order under Section 438 Cr.P.C. in favour of the third petitioner will not be justified. Since the first petitioner had been already arrested, his bail application is also liable to be dismissed.

In the result, this application stands dismissed as regards petitioner Nos.1 and 3 and allowed as regards the 2nd petitioner and the respondent is directed to release the second petitioner on bail in the event of his arrest in connection with Crime No.177/2015 of Eloor police station, on condition of the 2nd petitioner executing a bond for Rs.30,000/- (Rupees thirty thousand only) with two solvent sureties, each for the like sum to the satisfaction of the Sub Inspector of Police, Eloor Police Station, before whom the 2nd petitioner shall surrender within ten days and subject to the following further conditions:-

- (i) The second petitioner shall report before the Investigating Officer on every Monday

between 9 a.m. and 11 a.m. for three months and thereafter, as and when required by the Investigating Officer for interrogation.

(ii) The second petitioner shall not intimidate or influence the witnesses or in any way tamper with the investigation.

(iii) The second petitioner shall not get involved in any offence while on bail.

**B.SUDHEENDRA KUMAR,
JUDGE**

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