

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

Bail Appl..No. 2254 of 2015 ()

AGAINST THE ORDER IN CRMC 490/2015 of SESSIONS COURT,
TRIVANDRUM, DATED 11.03.2015 IN
CRIME NO. 110/2015 OF PALLICKAL POLICE STATION, THIRUVANANDAPURAM

PETITIONER(S)/3RD ACCUSED :

ANSI, AGED 20 YEARS,
S/O. SALIM, PARAVILAVEEDU, ATTOORKONAM,
KARINGANOR P.O., KOLLAM DISTRICT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENT(S)/STATE AND COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.
2. SUB INSPECTOR OF POLICE,
PALLICKAL POLICE STATION,
THIRUVANANTHAPURAM DISTRICT.

PUBLIC PROSECUTOR SMT. LILLY LESLIE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
22-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SS

K. RAMAKRISHNAN, J.

Bail Application No.2254 of 2015

Dated this the 22nd day of July, 2015

ORDER

This is an application filed by the 3rd accused in Crime No.110/2015 of Pallickal police station, for anticipatory bail under Section 438 of the Code of Criminal Procedure.

2. The case of the prosecution in nut shell was that, on 19.02.2015 at about 5.00 p.m., while the defacto-complainant was playing football at a school ground, the accused persons came in three motor cycles armed with G.I. pipe formed themselves an unlawful assembly with a common object to commit culpable homicide of the defacto-complainant and shouted to kill him and hit on his head with iron pipe by first accused and others kicked him and also beaten him with G.I. pipe and stick and thereby all of them have committed the offences punishable under Sections 143, 147, 148, 149, 341, 323, 324 and 308 of the Indian Penal Code.

3. Heard the counsel for the petitioner and learned Public Prosecutor and also perused the records.

4. The counsel for the petitioner submitted that, the only allegation against the present petitioner is that he had only kicked the defacto-complainant. So no offence under Section 308 of the Indian Penal Code is attracted against him. The 2nd accused was arrested and he was released on bail. So he prayed for allowing the application.

5. The application was opposed by the Public Prosecutor on the ground that the investigation is still in progress.

6. It is seen from the case diary file that the above crime was registered on the basis of the statement given by the defacto-complainant against three named persons including the petitioner and four identifiable persons alleging commission of the offences under Sections 143, 147, 148, 149, 341, 323, 324 and 308 of the Indian Penal Code. It is seen from the records that the petitioner

along with first accused moved the Sessions Court for anticipatory bail as Crl.M.C.No.490/2015 and that petition was dismissed by the learned Sessions Judge as per order dated 11.03.2015. It is also seen from the order of the Sessions Judge that, 2nd accused was arrested earlier. The learned Public Prosecutor submitted that he was released on bail later. The presence of the petitioner may be required for proper investigation and also to trace out the other persons involved in the crime and the weapon alleged to have been used by the first accused is yet to be recorded as well. Further it is seen from the records that serious head injury has been caused to the defacto-complainant.

So under the circumstances, this court feels that, it is not a fit case to grant anticipatory bail to the petitioner, invoking the power under Section 438 of the Code of Criminal Procedure. But that will not prevent him from surrendering before the concerned magistrate court and moves for regular bail and if such an application is filed

before that court, that court will consider the application and pass appropriate orders after hearing the Assistant Public Prosecutor of that court as far as possible on the date of filing of the application itself.

So the petitioner is not entitled to get anticipatory bail and the application is dismissed.

Sd/-
K. Ramakrishnan, Judge

//True Copy//

P.A. to Judge

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