

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 8TH DAY OF MAY 2015/18TH VAISAKHA, 1937

Bail Appl..No. 2457 of 2015 ()

**CRIME NO. 175/2015 OF VELLAMUNDA POLICE STATION,
WAYANAD DISTRICT**

PETITIONERS/ACCUSED :

- 1. CYRIL PAREKKATTIL AGED 59 YEARS
S/O. VARKEY, PAREKKATTIL HOUSE, KANIYARAM
MANATHAWADY, WAYANAD DISTRICT.**
- 2. NIRMAL CYRIL,
S/O. CYRIL PAREKKATTIL, PAREKKATTIL HOUSE, KANIYARAM
MANATHAWADY, WAYANAD DISTRICT.**
- 3. JOHNYKUTTY,
S/O. PAPPACHAN, LEELABHAVANM, NIRAVILPUZHA
THONDARNADU P.O., MANANTHAWADY, WAYANAD DISTRICT.**
- 4. NAJEEB,
S/O. ABDUL AZEEZ, VAZHAYIL HOUSE, MAKKIAD P.O.
WAYANAD DISTRICT.**

**BY ADVS.SRI.ABRAHAM MATHEW (VETTOOR)
SRI.SIJI ANTONY
SMT.BINI ELIZABETH
SRI.SRI.ANIL ABEY JOSE**

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. THE STATION HOUSE OFFICER,
VELLAMUNDA POLICE STATION, WAYANAD - 670 731.**

R1 & R2 BY PUBLIC PROSECUTOR SRI. ROY THOMAS

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 08-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

P.UBAID, J

Bail Appln.No.2457 of 2015

Dated this the 8th day of May, 2015

ORDER

The petitioners herein seek pre arrest bail under Section 438 of the Code of Criminal Procedure on the apprehension of arrest in connection with Crime No.175/2015 of the Vellamunda Police Station registered under Sections 143, 147, 148, 448, 427, 323, 354 read with Section 149 of the Indian Penal Code.

2. The prosecution case is that the petitioners assaulted the defacto complainant in connection with some other dispute and inflicted simple injuries on their body. The petitioners seek bail on the ground that even as per the allegations made by the complaint, it is only a case of assault, and something more will be required to constitute the offence under Section 354 IPC.

3. This application for pre arrest bail is opposed by the learned Public Prosecutor on the ground that custodial interrogation of the petitioners is absolutely necessary as part of investigation, and that if the accused are now

released, it will definitely obstruct the proper and effective investigation.

4. On hearing both sides, and on a perusal of the materials including the case diary I find that investigation in the crime is practically over, and that the petitioners can be granted pre arrest bail. On a perusal of the case diary I find that the investigating officer has already questioned the material witnesses and has recovered the necessary materials. In the particular facts and circumstances, and in the nature of the allegations, and also the nature of the materials required for prosecution, I find that custodial interrogation of the petitioners is not necessary in this case. This is not a case where something will have to be collected by way of custodial interrogation. I find that the police has gone a long way with investigation, and has already collected essential things. I do not find the necessity of detention of the petitioners in custody for the purpose of investigation in the above circumstances. It will suffice that the petitioners are directed to report before the investigating officer periodically. However, some other conditions are also felt necessary for bail.

5. On a perusal on the entire materials I find that this is only a case of simple assault wherein the defacto complainant sustained some injuries. There is reason to believe that there is some other dispute between the parties. In view of the fact that, that the alleged incident happened in connection with the other dispute, it is really doubtful whether this is in fact a case under Section 354 IPC. A mere assault on a lady will not attract Section 354 IPC. To make such an offence, punishable under Section 354 IPC something more by way of some indecent or unholy intention to humiliate a lady is required. It appears that there is an unhealthy practice these days that whenever a complaint of assault is made on a lady, the police will register FIR immediately under Section 354 IPC. It is made clear that for such an offence, something more than use of force or assault is required. Anyway, let the matter be probed into and decided by the trial court.

6. In the result, this petition for pre arrest bail is allowed. The petitioners are ordered to be released on bail on their executing bond with two solvent sureties for ₹25,000/- (Rupees Twenty Five Thousand only) each to the

satisfaction of the arresting officer or the learned Magistrate having jurisdiction, in case of their arrest in connection with Crime No.175/2015 of the Vellamunda Police Station. Bail is granted on condition that

a) The petitioners shall report before the investigating officer between 10 am. and 11 am on all Thursdays for a period of two months.

b) The petitioners shall not leave the limits of Vellamunda Police Station for two months.

c) The petitioners shall not in any manner influence or intimidate the material witnesses, or they shall not have any contact with the material witnesses directly or over telephone or otherwise.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE