

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYASHTA, 1937

Bail Appl..No. 2759 of 2015

CRIME NO. 76/2015 OF MANJERI POLICE STATION , MALAPPURAM

ACCUSED NO.1 TO 3 :

1. NUSRATHULLA.V, AGED 32 YEARS,
S/O.CHERIYA MOHAMMED, VADAKKANGAR, MANJAPPATTA,
ELANKOOR.
2. MOHAMMEDALI, AGED 29 YEARS,
S/O.CHERIYA MOHAMMED, VADAKKANGAR, MANJAPPATTA,
ELANKOOR.
3. RAHAMATHULLA, AGED 35 YEARS,
S/O.CHERIYA MOHAMMED, VADAKKANGAR, MANJAPPATTA,
ELANKOOR.

BY ADV. SRI.P.M.HABEEB

RESPONDENT(S):

**STATE OF KERALA,
REPRESENTED BY STATION HOUSE OFFICER,
MANJERI POLICE STATION, MALAPPURAM DISTRICT,
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 26-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

K. ABRAHAM MATHEW, J.

B.A. No.2759 of 2015

Dated this the 26th day of May, 2015

O R D E R

Petition filed under Section 438 Cr.P.C.

2. Petitioners are alleged to have committed the offence under Sections 341, 323, 324, 427, 326 and 506(i) read with Section 34 of Indian Penal Code.

3. The prosecution case is that at about 11.00 p.m on 01.01.2015 they armed with deadly weapons like iron pipe formed themselves into an unlawful assembly and assaulted the victim with the weapon causing fracture of his nasal bone. The learned counsel submits that there is a counter case and this court has granted anticipatory bail to the accused in that case.

4. Heard.

5. Merely because the accused in the counter case have been granted anticipatory bail the petitioners cannot be granted anticipatory bail. Their claim will be considered on the basis of the merits of their case. The incident happened at 11.00 in the night. The weapon used was an iron pipe. The victim sustained fracture of the nasal bone.

The weapon has so far not been recovered. If the petitioners are granted anticipatory bail, recovery will become impossible. So I am not inclined to grant anticipatory bail to them.

In the result, this application is dismissed.

The learned counsel for the petitioners submits that the petitioners will surrender before the investigating officer. They may do so if they are so advised.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge