

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE RAJA VIJAYARAGHAVAN.V

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYASHTA, 1937

Bail Appl..No.2835 of 2015

CRIME NO.362/2015 OF MUNAMBOM POLICE STATION,ERNAKULAM.

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APPLICANTS/ACCUSED NOS.1 & 2:

1. **SHIJU,AGED 37 YEARS,S/O.ANTONY,
KAVALAMKUZHI HOUSE,MUNAMBAMKARA,
KUZHUPPILLY VILLAGE.**
2. **MAHIJA,AGED 36 YEARS,D/O.MOHANAN,
PERUNTHARA HOUSE,CHERAI KARA,
PALLIPPURAM VILLAGE.**

**BY SRI.P.VIJAYA BHANU (SENIOR ADVOCATE).
ADVS.SRI.M.REVIKRISHNAN
SRI.VIPIN NARAYAN**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.JIBU P. THOMAS.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 17-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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RAJA VIJAYARAGHAVAN V, J.

B.A.No.2835 of 2015

Dated this the 17th day of June, 2015

O R D E R

1 The petitioners herein are the accused Nos.1 and 2 in Crime No.362/2015 of Munambam Police Station, Ernakulam District. The said crime has been registered against the petitioners under Sections 294(b), 324, 326 read with Section 34 of the Indian Penal Code.

2. The allegation against the petitioners is that, on 05.04.2015 at about 9.00 p.m., the petitioners along with their minor son, with the common intention of causing bodily injuries, attacked the defacto complainant , who is none other than the brother of the 2nd petitioner , with iron rods causing injuries . The further allegation is that the 3rd accused used a chopper and inflicted cut injury on the head of the defacto complainant resulting in a fracture.

3. I have heard the learned counsel for the petitioners as well as the learned Public Prosecutor.

4. The learned counsel for the petitioner has submitted that the allegations against the petitioners are absolutely false. According to the learned counsel, the defacto complainant is an alcoholic and he is in the habit of manhandling his parents. Pointing out the fact that the 2nd petitioner is the sister of the defacto complainant and the 1st petitioner is his brother in law, it was submitted that on 5.4.2015, the defacto complainant had brutally manhandled his parents and also the minor child of the petitioners. Unable to withstand the brutal onslaught of the defacto complainant, the minor child ran off to his house. The defacto complainant followed him to the house of the petitioners and assaulted the minor child. The petitioners herein went to the rescue of the child and in the melee, some injuries were caused to the defacto complainant and also the petitioners herein. It was pointed out by the learned counsel that the injury sustained by the petitioner was inflicted by the minor child while he was resisting the acts of the defacto complainant.

5. The learned counsel for the petitioners have also filed the affidavits of the parents of the defacto complainant before this Court to support their case. In the respective affidavits, the

parents of the defacto complainant have narrated the sequence of events and they have also stated as to how the incident had occurred on 5.4.2015.

6. The genuineness and veracity of the contents in the affidavit was inquired into and a statement has been submitted by the Sub Inspector of Police, Munambam Police Station on 15.06.2015. In the report, the statement of the grand parents, has not been contraverted. It has also been stated in the statement that the defacto complainant has committed similar acts on his parents and it was in the said circumstances that the minor child has assaulted him with a dangerous weapon. As against the petitioners herein, there is no allegation that they have used any dangerous weapon in causing the head injury of the defacto complainant.

7. In view of the above and in view of the special facts and circumstances of this case, I am of the opinion that the petitioners can be enlarged on bail subject to stringent conditions:

1. The petitioners will be released on bail, in the event of their arrest, on their executing a bond for Rs.50,000/- each (Fifty Thousand only)

with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate concerned.

2. They shall not leave India without the previous permission of the jurisdictional court.

3. The petitioners shall cooperate with the investigation and shall appear before the investigating officer between 10 a.m and 11 a.m on every Wednesday for 3 months, or till the final report is filed, whichever is earlier.

4. They shall not threaten or attempt to influence the witnesses and shall not get involved in any criminal case while on bail.

5. They shall in no event tamper or attempt to tamper with the evidence nor shall they hamper the investigation.

Violation of any of the above conditions will entitle the jurisdictional Court to cancel the bail in accordance with the law.

In the result, this application is allowed.

Sd/-

RAJA VIJAYARAGHAVAN V., JUDGE.

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[True copy]

P.A to Judge