

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. 3022 of 2015 ()

CRIME NO. 1310/2015 OF ALUVA EAST POLICE STATION, ERNAKULAM DIST.

.....

PETITIONER/ACCUSED NO.1:

**FAIZAL, AGED 36 YEARS,
S/O. MUHAMMED, MUPPIRICKAL HOUSE,
KURIKKOTHU KADAVU ROAD, KUNJUNNI KARA,
KADUNGALLOOR-683 108.**

BY ADV. SRI.C.P.UDAYABHANU.

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE S.I. OF POLICE,
(CRIME NO.1310/15), ALUVA EAST POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.N. SURESH.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 26-06-2015, ALONG WITH BA NO.3030 OF 2015, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:**

rs.

B.SUDHEENDRA KUMAR, J.

.....
B.A.Nos. 3022 & 3030 of 2015
.....

Dated this the 26th day of June, 2015

ORDER

The petitioner in B.A.No.3022/2015 is the 1st accused and the petitioner in B.A.No.3030/2015 is the 2nd accused in Crime No.1310 of 2015 of Aluva East Police Station. The offences alleged are offences under Sections 452, 114, 326 and 307 read with Section 34 of the Indian Penal Code.

2. The prosecution allegation is that on 30.04.2015 at 8.15 p.m., the 1st accused inflicted injuries on the de facto complainant with an iron rod in furtherance of the common intention of all the accused.

3. The petitioners have filed these applications under Section 438 of the Code of Criminal Procedure.

4. Heard.

5. The learned Public Prosecutor has opposed these applications. It has been submitted by the learned Public Prosecutor that the 1st accused alone inflicted injuries on the de facto complainant. The 2nd accused brought the 1st accused to the house of the de facto complainant and thereafter, the 1st accused entered into the house and attacked the de facto complainant. After the incident, the 1st accused was taken

back in the scooter driven by the 2nd accused. Even as per the prosecution case, the 2nd accused did not inflict any injury on the de facto complainant. The learned Public Prosecutor has submitted that the 2nd accused is not involved in any other offence of similar nature. However, the 1st accused used an iron rod to inflict injuries on the de facto complainant. The de facto complainant sustained injuries including fracture on her left zigma.

6. Considering the facts and circumstances of the case, including the nature of overt acts alleged against the petitioners, I am of the view that an order under Section 438 Cr.P.C. in favour of the 1st accused will not be justified in this case. However, considering the facts and circumstances of the case, including the fact that the 2nd accused did not inflict any injury on the de facto complainant and also taking into consideration of the fact that the 2nd accused is a first time offender, I am inclined to grant the relief under Section 438 Cr.P.C. in favour of the 2nd accused.

7. In the result, B.A.No.3022 of 2015 stands dismissed and B.A.No.3030 of 2015 stands allowed. It is directed that the petitioner in B.A.No.3030/2015 shall be released on bail in the event of his arrest in connection with Crime No.1310 of

2015 of Aluva East Police Station on condition of the 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 Circle Inspector of Police, Aluva, before whom the petitioner shall surrender within ten days from today and subject to the following conditions:

- i) The 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 petitioner shall not intimidate or influence the witnesses or in any way tamper with the investigation.
- ii) The petitioner shall not get involved in any offence while on bail.

Sd/-
B.SUDHEENDRA KUMAR
JUDGE

AMV/27/06/

/TRUE COPY/

P.A.TO JUDGE