

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW**

**TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937**

**Bail Appl..No. 3682 of 2015**  
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**CRIME NO. 471/2015 OF KAZHAKKUTTOM POLICE STATION,  
THIRUVANANTHAPURAM DISTRICT.**  
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**PETITIONER(S)/A1 TO A3:**  
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1. NIJO CLEETUS, AGED 27,  
S/O. CLEETUS, SINDHYA COTTAGE,  
MENAMKULAM VILLAGE, KAZHAKUTTOM,  
THIRUVANANTHAPURAM.
2. RAJESH @ ULLAS AGED 31,  
S/O. KANAKARAJAN, CHIKKU BHAVAN,  
PARVATHY NAGAR, MENAMKULAM VILLAGE,  
KAZHAKUTTOM, THIRUVANANTHAPURAM.
3. VISHNU, AGED 29, S/O. MOHANAN,  
MANAKATTUVILAKOM, KARIYIL,  
KAZHAKUTTOM, THIRUVANANTHAPURAM.

**BY ADV. SRI.SHAJIN S.HAMEED**

**RESPONDENT/STATE :**  
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**STATE OF KERALA, REPRESENTED THROUGH  
THE SUB INSPECTOR OF POLICE,  
KAZHAKUTTOM POLICE STATION,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.**

**BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 30-06-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**mbr/**

**K. ABRAHAM MATHEW, J.**

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**B.A.No. 3682 of 2015**

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Dated this the 30<sup>th</sup> day of June, 2015

**ORDER**

Petition filed under Section 438 Cr.P.C.

2. Petitioners are alleged to have committed the offences under Sections 294(b), 323, 324, 341, 308, 427, and 34 of the IPC and Section 27 of the Arms Act, 1959. The prosecution case is that they assaulted the victim who was working as an employee in a restaurant with weapons like swords causing serious injuries on the back of his head.

3. Heard.

4. Learned counsel submits that the victim sustained injuries, when he fell down. A perusal of the First Information Statement shows that the first petitioner assaulted the victim with a sword and then the victim caught hold of the sword and in the process he sustained injuries on his head. But, the injuries sustained by him is on the back of his head. This makes doubtful the prosecution case that the assault was with a sword. The probability of the victim sustaining injuries in a fall cannot be

ruled out. So, I am inclined to grant the prayer of the petitioners.

In the result, this application is allowed.

- 1)The petitioners shall be released on bail on their executing a bond for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum if they are arrested by the Police in connection with this case.
- 2)The petitioners shall surrender their passports before the lower concerned or if they do not have one, they shall file affidavits to that effect within five days of their release.
- 3)They shall not leave India without the previous permission of the court of enquiry or trial court as the case may be.
- 4)They shall appear before the Investigating Officer between 10 a.m. and 11 a.m. on every alternate Friday for four months or till the final report is filed, whichever is earlier.
- 5)They shall not intimidate or attempt to influence the witnesses.
- 6)They shall not destroy or tamper with evidence.

7) They shall not get themselves involved in any other criminal case while they are on bail.

If the petitioners surrender before the Magistrate this order is not applicable and the learned Magistrate may pass appropriate orders.

In case of violation of any of the above conditions, the learned Magistrate is empowered to cancel the bail in accordance with the law.

Sd/-

**K. ABRAHAM MATHEW,  
JUDGE**

DST

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P.A. To Judge