

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

Bail Appl..No. 3744 of 2015 ()

AGAINST THE ORDER IN CRMP 984/2015 of DISTRICT & SESSIONS
COURT, KOTTAYAM, DATED 15-06-2015 IN
CRIME NO.1119/2015 OF THRIKKODITHANAM POLICE STATION, KOTTAYAM

PETITIONER(S)/PETITIONER/ACCUSED NO.1 TO 3:

1. KANNAN, AGED 24 YEARS,
S/O.PRASAD, NANDANAM, OMANNILPUTHENPURACKAL HOUSE,
PAIPPADU VILLAGE, CHANGANACHERRY TALUK, KOTTAYAM.
2. SIRAJ @ ANIL, AGED 37 YEARS,
S/O.SUBAIR, CHERUVALLY KIZHAKKATHIL, PAIPPADU VILLAGE,
CHANGANACHERRY TALUK, KOTTAYAM.
3. SUDHEER, AGED 39 YEARS,
S/O.SUBAIR, CHERUVALLY KIZHAKKATHI, PAIPPADU VILLAGE,
CHANGANASSERY TALUK, KOTTAYAM DISTRICT.

BY ADVS.SRI.K.SHAJ
SRI.SAJJU.S

RESPONDENT(S) :

1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
2. SUB INSPECTOR OF POLICE, THRICKODITHANAM POLICE STATION,
THRICKODITHANAM, KOTTAYAM, PIN -691 523.

BY PUBLIC PROSECUTOR SRI. JOBY JOSEPH.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
22-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SS

K. RAMAKRISHNAN, J.

Bail Application No.3744 of 2015

Dated this the 22nd day of July, 2015

ORDER

This is an application filed by accused Nos.1 to 3 in Crime No.1119/2015 of Thrikkodithanam police station of Kottayam District for anticipatory bail under Section 438 of the Code of Criminal Procedure.

2. The case of the prosecution in nut shell was that, on 24.05.2015 at about 8.00 p.m., the accused persons in furtherance of their common intention of causing grievous hurt to the defacto-complainant, inflicted injuries on him with an iron rod, a dangerous weapon and caused grievous hurt to him and thereby all of them have committed the offence punishable under Sections 323, 326, 294(b), 506(ii) read with Section 34 of the Indian Penal Code.

3. Heard the counsel for the petitioner and learned Public Prosecutor and also perused the records.

4. The counsel for the petitioner submitted

that, there is no offence under Section 326 is attracted and the custody of the petitioner is not required.

5. The application was opposed by the Public Prosecutor.

6. It is seen from the records that, the above case was registered on the basis of the statement given by the defacto-complainant in this case against the petitioners, alleging commission of the above said offences. The investigation is still in progress. The weapons alleged to have been used for the commission of the crime have to be recovered. Further it is seen from the file that they moved the Sessions Court for anticipatory bail as CrI.M.P.No.984/2015 and the learned Sessions Judge had dismissed the application with an observation that they shall surrender before the investigating officer within five days and if their arrest is recorded, they are directed to be produced before the magistrate court on the same day before 4.00 p.m. after interrogation and if any bail application is filed, the same is directed to be disposed of on the same day on merit. This order was dated 15.06.2015,

but that has not been complied with instead they approached this court for anticipatory bail application.

7. On going through the allegations and also through the case diary file, this court feels that, it is not a fit case to invoke the power under Section 438 of the Code of Criminal Procedure to grant anticipatory bail to the petitioners. They can very well surrender before the concerned investigating officer or before the court and if they surrender before the concerned court and move for regular bail, then that court is at liberty to consider and dispose of the bail application in accordance with law as far as possible on the date of filing of the application itself after hearing the Assistant Public Prosecutor of that court as well.

With the above observation, the petition is dismissed.

Sd/-
K. Ramakrishnan, Judge

//True Copy//

P.A. to Judge