

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

Bail Appl..No. 5468 of 2015 ()

CRIME NO. 687/2015 OF VATAKARA POLICE STATION , KOZHIKODE DISTRICT

PETITIONER/2ND ACCUSED:

**YUNUS, S/O. AMMED,AGED 31 YEARS,
THEVARKANDY HOUSE, AYYANCHERI P.O.,
VATAKARA TALUK, KOZHIKODE DISTRICT.**

**BY ADVS.SRI.P.SAMSUDIN
SRI.K.C.ANTONY MATHEW
SRI.JITHIN LUKOSE**

RESPONDENT/COMPLAINANT:

**THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF EKRALA, ERNAKULAM- 682 031**

BY PUBLIC PROSECUTOR SMT. R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 06-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

sts

A.HARIPRASAD, J.

B.A No.5468 of 2015

Dated this the 6th day of October, 2015.

ORDER

Application for pre-arrest bail under Section 438 Cr.P.C.

2. Petitioner is the second accused in Crime No.687/2015 of Vatakara Police Station registered for offences punishable under Sections 436 r/w Section 34 I.P.C.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. Prosecution case, in short, is that the defacto complainant's father is the owner of the scooter and it was being used by the defacto complainant. In the early hours on 29-06-2015 at about 2.30 a.m., the petitioner and the other accused committed mischief by setting fire to the scooter, which was parked in the courtyard of the house causing a loss to the tune of Rs.85,000/-. In the incident, a portion of the house was also burned.

5. Learned Public Prosecutor opposed the bail

application. She submitted that the materials in the case diary would show that not only his scooter, but also the shed and other parts of the house was also affected by the fire. Hence, the contention of the learned counsel of the petitioner that if at all any offence is made out, it is only Section 435 I.P.C cannot be accepted as the alleged offence prima facie falls within the ambit of Section 436 I.P.C. I find no reason to grant pre-arrest bail to the petitioner. Hence, following directions are issued :

The petitioner shall surrender before the Investigating Officer within a period of one week from today and submit himself for interrogation. Thereafter, he shall be produced before the learned Magistrate having jurisdiction on the same day. The petitioner is free to move for regular bail before the court below. In that event, the application shall be

considered on merits as expeditiously as possible. If petitioners do not surrender in the stipulated time, the Investigating Officer is free to arrest him as if no order is passed in this matter.

Sd/-
A.HARIPRASAD,
JUDGE.

//True copy//

P.A to Judge

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