

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

Bail Appl..No. 5602 of 2015 ()

CRIME NO. 169/2015 OF CHERPULASSERY POLICE STATION, PALAKKAD DISTRICT.

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PETITIONER:

**SAMEEMUL HASSAN K., AGED 21 YEARS,
S/O.HASSAN, KONGASSERY HOUSE,
VALLAPUZHA, PALAKKAD DISTRICT.**

BY ADV. SRI.P.JAYARAM.

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. NIYAS ALI, S/O.SAIDALAVI,
THEYYALIKKAL HOUSE, K.T. PADI,
P.O. MARAYAMANGALAM, NELLAYA,
OTTAPALAM, PALAKKAD DISTRICT, PIN - 679 335.**

BY PUBLIC PROSECUTOR SMT.R. REMA.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 23-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

A. HARIPRASAD, J.

Bail Appl. No.5602 of 2015

Dated this the 23rd day of September 2015

O R D E R

Petition filed under Sec.438 Cr.P.C.

2. Petitioner is the 3rd accused in Crime No.169 of 2015 of Cherpulassery Police station registered for the offences punishable under Secs.323, 324, 326 and 341 read with Sec.34 of the Indian Penal Code. The prosecution case is that the accused persons attacked the defacto complainant and the petitioner (3rd accused) hit the defacto complainant on his forehead with a granite piece resulting in an injury to the artificial eye too of the defacto complainant.

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

4. Learned counsel for the petitioner submitted that accused nos.1 and 2 have been released on bail by this Court as per order dated 24.03.2015 in B.A. No.1398 of 2015. It is also submitted by the learned counsel for the petitioner that the parties have settled the matter.

5. Learned Public Prosecutor submitted that the case against accused nos.1 and 2 is different and distinct from that against the petitioner. The other accused did not use any weapon whereas the petitioner hit the defacto complainant with a granite stone.

6. Since it is well settled that a non-compoundable offence cannot be settled by the parties at their volition, I am not taking into account that submission at all. Considering the facts and circumstances of the case, I am not inclined to grant anticipatory bail to the petitioner.

“ The petitioner shall surrender before the investigating officer within a period of two weeks and submit himself for interrogation. Thereafter, the investigating officer shall produce the petitioner before the learned Magistrate having jurisdiction on the date of surrender itself. The petitioner is free to move for bail before the learned Magistrate. In that event, the learned Magistrate shall consider

the bail application on merits as expeditiously
as possible, if possible on the date of surrender
itself.”

Sd/-
A. HARIPRASAD
JUDGE

/ True Copy /

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P.A. To Judge