

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

Bail Appl..No. 5707 of 2015

**CRIME NO. 1246/2015 OF CANTONMENT POLICE STATION ,
THIRUVANANTHAPURAM**

PETITIONER(S)/ACCUSED :

- 1. AJAYAN, AGED 30 YEARS,
S/O.RUGMINI, HOUSING COLONY NO.384, RAJAJI NAGAR,
CHENKALCHOOA, THIRUVANANTHAPURAM.**
- 2. KITTU, AGED 23 YEARS,
S/O.CHANDRAN, FLAT NO.350, RAJAJI NAGAR,
CHENKALCHOOA, THIRUVANANTHAPURAM.**
- 3. SARATH, AGED 22 YEARS,
S/O.SASEENDRAN, HOUSE NO.328, RAJAJI NAGAR,
CHENKALCHOOA, THIRUVANANTHAPURAM.**
- 4. VIPIN, AGED 30 YEARS,
S/O.ISSAC, HOUSE NO.365, RAJAJI NAGAR,
CHENKALCHOOA, THIRUVANANTHAPURAM.**

**BY ADVS.SRI.G.RANJU MOHAN
SMT.M.SANTHI (K/868/2011)**

RESPONDENT(S)/STATE :

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.TY.LALIZA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

A.HARIPRASAD, J.

B.A. No.5707 of 2015

Dated this the 30th day of September, 2015

ORDER

Petitioners are accused in Crime No.1246 of 2015 of Contonment Police Station registered for offences punishable under Sections 294(b), 323 and 354 read with Section 34 of the Indian Penal Code. They seek pre-arrest bail under Section 438 of the Code of Criminal Procedure.

2. Mother of the first accused was engaged in the sale of tobacco products. Husband of the defacto complainant resisted the conduct of sale near his residential building. Infuriated by the attitude of the defacto complainant's husband, the accused persons trespassed into her residential house in search of her husband on 14.08.2015 at 6.30 p.m. and abused them. The accused persons pushed her son and kicked her thereby she fainted and hospitalised.

3. Heard both sides.

4. Learned counsel submitted that petitioners are innocent. In fact there is a complaint filed by the first petitioner's wife before the Women's Commission which is produced as Annexure-A2(1) in respect of an incident occurred on 14.08.2015. Subsequently Annexure-A2(2) first

information report was registered by the Police against the defacto complainant. According to the learned counsel for the petitioners, this is a false story alleged against the petitioners. Learned Prosecutor opposed the bail application. According to her, the second petitioner (second accused) is involved in three other crimes. Petitioners 1, 3 and 4 are not involved in other crimes. But according to the Prosecutor, there are allegations against them in the case diary. Hence the following directions:

Plea for anticipatory bail by the second petitioner (second accused) is rejected. If petitioners 1, 3 and 4 surrender before the investigating officer in one week, they shall be questioned and thereafter they shall be produced before the Magistrate having jurisdiction on the date of surrender itself. If the petitioners move for bail, the court below shall consider the bail application on merits as expeditiously as possible. If the petitioners do not surrender before the investigating officer within the said time, the investigating officer is free to arrest them, as if no order is passed in this case.

A. HARIPRASAD, JUDGE.

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