

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

Bail Appl..No. 5873 of 2015 ()

**CRIME NO. 1347/2015 OF NEMOM POLICE STATION,
THIRUVANANTHAPURAM DISTRICT**

PETITIONER(S)/ACCUSED NO.1 TO 3 & 5 :

- 1. NITHIN, AGED 19 YEARS, S/O.BABY,
SREELAKOM, POLICE QUARTERS ROAD, NEMOM.P.O.,
THIRUVANANTHAPURAM-695 020**
- 2. MIRSHA.S., AGED 19 YEARS, S/O.SAHEER,
KOTTAKKAVILAKATHU VEEDU, NEMOM.P.O.,
THIRUVANANTHAPURAM-695 020**
- 3. ABDULLA, AGED 19 YEARS, S/O.THAJUDHEEN,
MUBARAK MANZIL, KUZHIVILAKATHU VEEDU, NEMOM.P.O.,
THIRUVANANTHAPURAM-695 020**
- 4. ANWAR.A., AGED 19 YEARS, S/O. ABDUL RASHEED,
THEKKINAKATHU VEEDU, CHANALKKARA, NEMOM.P.O.,
THIRUVANANTHAPURAM-695 020**

**BY ADVS.SRI.C.R.VIJAYAKUMARAN PILLAI
SRI.A.CHANDRA BABU
SRI.R.SANTHOSH (VARKALA)
SMT.S.V.HARITHA**

RESPONDENT :

**STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
NEMOM POLICE STATION, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 15-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

sts

RAJA VIJAYARAGHAVAN V, J.

B.A.No.5873 of 2015

Dated this the 15th day of October, 2015

O R D E R

This is an application for anticipatory bail filed under S.438 of the Code of Criminal Procedure.

2. The petitioners herein are the accused Nos.1 to 3 & 5 in Crime No.1347/2015 of Nemom police station. The said crime has been registered for the offence punishable under S.294B, 323, 341, 308, 427 & 149 of the IPC.

3. The prosecution allegation is that on 03.08.2015 at 3.45 p.m., the petitioners wrongfully restrained the de facto complainant near the Homoeo College Junction, Neyyattinkara, Thiruvananthapuram while he was coming on a motorcycle and inflicted serious injuries on his head with lethal weapons like a chopper and an axe.

4. I have heard the learned counsel appearing for the petitioners as well as the learned Public Prosecutor.

5. The learned counsel appearing for the petitioners has submitted that the allegations leveled against the petitioners are false and fabricated. It is pointed out that Annexure II to IV petitions were submitted by the mother of the first accused against the de facto complainant when he persistently harassed the sister of the first accused who is a college student. It is aggrieved by the filing of the aforesaid complaints that this false crime has been registered is the submission of the learned counsel.

6. The learned Public Prosecutor has handed over the case diary for perusal. The outpatient records of the Medical College Hospital issued in respect of the first informant would reveal that he had sustained serious injuries in the

incident. The learned Public Prosecutor further submitted that the accused Nos. 2 & 3 are involved in crime No.193/2014 of Nemom police station registered for offence inter alia under S.324 of the IPC and this is not a fit case in which the relief of anticipatory bail can be granted to the petitioners. After having considered the rival submissions and nature and gravity of the allegations, the antecedents of the petitioners and the stage of the investigation, I am of the considered view the petitioners are not entitled to any relief under S.438 of the Code.

In the result, the bail application is dismissed. However, the petitioners, may surrender before the Investigating Officer within ten days from today and in such case, the Investigating Officer shall interrogate the petitioners, effect recovery if any, and conduct necessary investigation and thereafter produce the petitioner without delay before the concerned Judicial First Class Magistrate's

Court, where the petitioner can move for bail. In such case, the learned Magistrate shall pass appropriate orders, preferably on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor.

The application is disposed of as above.

Sd/-
**RAJA VIJAYARAGHAVAN V,
JUDGE.**

Bb

[True copy]

P.A to Judge