

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. 5907 of 2015 ()

CRIME NO. 677/2015 OF POTHENCODE POLICE STATION, THIRUVANANTHAPURAM

PETITIONER/ACCUSED :

**RAJESH, AGED 23 YEARS
S/O.VIJAYAN, CHEMMANCHERIKONATH VEEDU, VETTINADU
VATTAPPARA, THIRUVANANTHAPURAM.**

**BY ADVS.SRI.A.RAJASIMHAN
SRI.K.NIRMALAN**

RESPONDENT/STATE :

**STATE OF KERALA
THROUGH THE SUB INSPECTOR OF POLICE
POTHENCODE POLICE STATION, THIRUVANANTHAPURAM
REPRESENTED BY 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:**

Mn

RAJA VIJAYARAGHAVAN V, J.

B.A.No.5907 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 petitioner is the sole accused in Crime No.677/2015 of Pothencode police station. The said crime has been registered for offence punishable under S.294(b), 341, 324 & 326 of IPC.

3. The prosecution allegation is that on 28.07.2015 at about 6.30 p.m., while the de-facto complainant was sitting in the veranda of Yuvamithra Club, the petitioner wrongfully restrained him and thereafter, assaulted him with a wooden stick on his head and body and caused grievous

injuries on his head and also a fracture to the right hand.

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

5. The learned counsel appearing for the petitioner submitted that the petitioner is not the aggressor but the victim of offence committed by the defacto complainant and his son. By placing reliance on Annexure A2 certificate issued from the Public Health Centre, the learned counsel has submitted that, on 28.07.2015 itself he had approached the hospital and had complained of injuries sustained by him. According to the learned counsel, the informant, who is none other than his employer, had misbehaved with his wife and when warned about the same, the de facto complainant and his son had attacked him and caused severe injuries on the body of the petitioner. The counsel for the petitioner has also produced the photographs

revealing the injuries sustained by the petitioner. It was further submitted based on Annexure A4 that the wife of the petitioner had also submitted a complaint before the Circle Inspector of Police, Venjaramood Police Station on 03.08.2015 detailing the actual incident which had taken place.

6. The learned Public Prosecutor has produced the case diary for perusal. The outpatient records of the Medical College Hospital, reveals in unmistakable terms that the informant had sustained fracture on the distal 1/3rd of the Ulna . The son of the first informant was also assaulted with a wooden reaper causing injuries. In so far as Annexure A2 certificate produced by the petitioner is concerned, it only reveals that the petitioner had sustained an abrasion on the right side of face. Annexure A4 complaint on the other hand has been preferred several days after the incident .

7. Having regard to the facts and circumstances, I am of the considered view that this is not a case wherein the petitioner can be granted an order of anticipatory bail. The injuries sustained by the informant are serious. The application is accordingly dismissed.

Needless to say, the option of the petitioner to surrender before the Investigating Officer or the learned Magistrate and seek regular bail shall remain unfettered. If the petitioner so appears and applies for bail, needless to say, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

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

Bb

[True copy]

P.A to Judge