

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

Bail Appl..No. 6282 of 2015

CRIME NO. 335/2015 OF CHITTARIKAL POLICE STATION , KASARGOD

PETITIONERS/ACCUSED 1 AND 2:

1. KURIAN @ JOHNY, AGED 47 YEARS,
S/O.JOSEPH, RESIDING AT MUNHANATTU HOUSE, ATHIRUMAVU,
PALAVAYAL VILLAGE, MUTTOM KADAVU POST,
VELLARIKUNDU TALUK, KASARAGOD DISTRICT.
2. RANEESH.P.PAUL, AGED 34 YEARS,
S/O.PAULOSE, RESIDING AT ATHIRUMAVU, PALAVAYAL VILLAGE,
MUTTOM KADAVU POST, VELLARIKUNDU TALUK,
KASARAGOD DISTRICT.

BY ADV. SRI.T.MADHU

RESPONDENT/STATE:

**THE STATE OF KERALA,
THROUGH THE STATION HOUSE OFFICER,
CHITTARIKKAL POLICE STATION, KASARAGOD DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**

BY PUBLIC PROSECUTOR SMT.R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16-10-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

B.SUDHEENDRA KUMAR, J.

B.A.No.6282 of 2015

Dated this the 16th day of October, 2015

ORDER

The petitioners are accused in Crime No.335 of 2015 of Chittarikkal Police Station registered under Sections 341, 323, 324 and 506(i) r/w Section 34 of the Indian Penal Code.

2. The prosecution allegation is that on 09.09.2015 at about 07.30 p.m., the petitioners wrongfully restrained the defacto complainant and threatened him and beat him with hands. The 2nd petitioner inflicted blow on the defacto complainant with a torch, causing fracture of bone of the little finger of his right hand.

3. The petitioners have filed this application under Section 438 Cr.P.C.

4. Heard.

5. Originally the crime was registered for offences under Sections 341, 323, 324 and 506(i) r/w Section 34 of the Indian Penal Code. However, subsequently, the

fracture was noticed and hence the offence under Section 326 IPC was substituted for the offence under Section 324 IPC. It appears that the Act alleged in this case was not a pre-meditated Act. The instrument used to cause fracture is torch. The defacto complainant sustained fracture of the little finger of his right hand.

6. Considering the facts and circumstances of the case, including the nature of the weapon used and the injuries sustained by the defacto complainant, I am of the view that this is not a case where the custodial interrogation of the petitioner is necessary for the progress of investigation of the case. In the said circumstances, an order under Section 438 Cr.P.C. in favour of the petitioner will be justified in this case.

In the result, this application stands allowed and the respondent is directed to release the petitioners on bail in the event of their arrest in connection with Crime No.335 of 2015 of Chittarikkal Police Station on condition of each of petitioners executing a bond for ₹30,000/- (Rupees thirty thousand only) each with two solvent sureties each,

each for the like sum to the satisfaction of the Station House Officer, Chittarikkal Police Station before whom the petitioners shall surrender within 10 days from today, if not already arrested, and subject to the following conditions:

- (a) The petitioners shall report before the Investigating Officer on every Monday between 09.00 a.m and 11.00 a.m. for a period of three months or until the filing of the final report, whichever is earlier.
- (b) The petitioners shall report before the Investigating Officer as and when required in writing to do so.
- (c) The petitioners shall not get involved in any offence while on bail.

Sd/-

B.SUDHEENDRA KUMAR, JUDGE.

AS

/True Copy/

P.A. to Judge