

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

Bail Appl..No. 6336 of 2014

**CRIME NO. 509/2014 OF VATTAPPARA POLICE STATION,
THIRUVANANTHAPURAM DISTRICT.**
.....

PETITIONER(S)/ACCUSED NOS 2 & 4:

- 1. PRASANTH, AGED 30 YEARS,
S/O.BHASKARAN, PRASANTH HOUSE,
VAZHOTTUPOIKA VEEDU, PANTHALODE.P.O,
VATTAPPARA, THIRUVANANTHAPURAM.**
- 2. SREEKUTTAN, AGED 27 YEARS,
S/O.BHASKARAN, PRASANTH HOUSE,
VAZHOTTUPOIKA VEEDU, PANTHALODE.P.O,
VATTAPPARA, THIRUVANANTHAPURAM.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN**

RESPONDENT/STATE:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
(CRIME NO.509/2014 OF VATTAPPARA POLICE STATION,
THIRUVANANTHAPURAM DISTRICT)-682031.**
- 2. STATION HOUSE OFFICER,
VATTAPPARA POLICE STATION,
THIRUVANANTHAPURAM DISTRICT
(CRIME NO.509/2014 OF VATTAPPARA POLICE STATION,
THIRUVANANTHAPURAM DISTRICT)-695501.**

BY PUBLIC PROSECUTOR SMT.BINDU GOPINATH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 20-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

B.KEMAL PASHA, J.

B.A.No.6336 of 2014

Dated this the 20th day of January 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.2 and 4 in Crime No.509/2014 of the Vattappara Police Station, Thiruvananthapuram district registered for the offences punishable under Sections 294(b), 323, 325, 326 and 308 read with Section 34 of the Indian Penal Code.

3. The allegation against the petitioners and the other accused is that, on 26.6.2014 at 4.30 p.m., the first accused hit on the right ear of the de-facto complainant with a stone, thereby causing him to fall down and thereafter, he was again hit him with stones. Accused 2 and 3, by sitting on the body of the de-facto

complainant, fisted him repeatedly. The allegation against the A4, who is the second petitioner herein, is that he abused the de-facto complainant.

4. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

5. The contents of the C.D. *Prima facie* reveal the complicity of the petitioners. The allegation against A2, who is the first petitioner herein, is very grave and serious. It seems that the de-facto complainant has suffered nasal bone fracture and bleeding injuries. As far as the second petitioner is concerned, the only allegation is that he abused the de-facto complainant. Considering the said aspect, I am of the view that this is a fit case wherein anticipatory bail can be granted to the second petitioner. At the same time, as far as the first petitioner/A2 in the crime is concerned, he is not entitled to the discretionary relief of anticipatory bail. When considering the fact that there is no

allegation that the first petitioner has made use of any weapon, I am of the view that an opportunity can be granted to him to surrender before the Investigating Officer and to co-operate with the investigation.

6. In the result, this bail application is allowed in part and the investigating officer or such other police officer, who is conducting the arrest of the second petitioner, is directed to enlarge the second petitioner on bail in the event of his arrest on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) The second petitioner shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Tuesdays and Fridays, commencing from 27.1.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The second petitioner shall not tamper with

the evidence or influence witnesses.

(iii) The second petitioner shall make himself available for interrogation as and when required by the investigating officer.

(iv) The second petitioner shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

7. As far as the first petitioner is concerned, this bail application stands dismissed. At the same time, if so advised, the first petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the first petitioner, effect recovery if any, and conduct the investigation and produce the first petitioner without delay before the concerned Judicial First Class Magistrate's Court, where the first 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 also.

Sd/-
B.KEMAL PASHA,
JUDGE

dl

// TRUE COPY //

PA to Judge