

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

Bail Appl..No. 6448 of 2015 ()

CRIME NO. 1023/2015 OF KASABA POLICE STATION , PALAKKAD DISTRICT

PETITIONER(S)/ACCUSED NO.1 & 2:

- 1. VIJESH.V., AGED 25 YEARS,
S/O.VISWANATHAN, KANNAN HOUSE, P.N.CHALLA,
EDUPPUKULAM POST, PALAKKAD - 678 556.**
- 2. SIVADAS.S., AGED 26 YEARS,
S/O.SUNDARAN.R., P.K.CHALLA, EDUPPUKULAM,
PALAKKAD.**

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

RESPONDENT & STATE:

- 1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM - 682 031.
(CRIME NO.1023/2015 OF KASABA POLICE STATION,
PALAKKAD DISTRICT).**
- 2. STATION HOUSE OFFICER, KASABA POLICE STATION,
PALAKKAD DISTRICT -678 001. (CRIME NO.1023/2015 OF KASABA
POLICE STATION, PALAKKAD DISTRICT).**

BY PUBLIC PROSECUTOR SMT. R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 03-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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A.HARIPRASAD, J.

B.A. No.6448 of 2015

Dated this the 3rd day of December, 2015

ORDER

Application under Section 438 of the Code of Criminal Procedure.

2. Petitioners are accused 1 and 2 in Crime No.1023 of 2015 of Palakkad Kasaba Police Station registered for offences punishable under Sections 341, 324, 308 and 354 read with Section 34 of the Indian Penal Code. They seek pre-arrest bail.

3. Prosecution allegation, in short, is that in furtherance of common intention, the accused persons assaulted the defacto complainant with swords. They outraged the modesty of a lady who tried to meddle with the incident.

4. Heard both sides.

5. Learned counsel for the petitioners contended that a case has been registered at the instance of one of the petitioners against the defacto complainant and other people as Crime No.1031 of 2015 of the same Police Station under Sections 143, 147, 148, 323 and 324 read with Section 149 of the Indian Penal Code. This case is a counter blast to that crime is the contention of the accused persons.

6. Learned Prosecutor with reference to the case diary materials contended that the victim had sustained a deep lacerated wound on the head apparently caused by the handle of the sword. The allegation to constitute an offence under Section 354 of the Indian Penal Code is that in the scuffle the saree worn by a lady was taken off.

Considering the nature of allegations, I am not inclined to grant pre-arrest bail to the first petitioner. Second petitioner is entitled to get pre-arrest bail. Hence the following order:

i. In the event the first petitioner surrenders before the investigating officer within a period of two weeks from today, after interrogation he shall be produced before the learned Magistrate having jurisdiction on the date of surrender itself. In that event, he is free to move for bail and the learned Magistrate shall consider the application on merits and pass appropriate orders as expeditiously as possible, if possible on the date of surrender itself. If the petitioner does not surrender before the investigating officer within the said time, the investigating officer is free to arrest him, as if no order is passed in this case.

ii. Second petitioner shall surrender before the investigating officer within a period of two weeks and submit himself for interrogation. Thereafter he shall execute a bond for ₹25,000/- (Rupees twentyfive thousand only) with two solvent sureties each for the like sum to

the satisfaction of the investigating officer. In that event, he shall be released on bail in Crime No.1023 of 2015 of Palakkad Kasaba Police Station.

iii. The sureties shall produce documents to establish their identity and solvency. The investigating officer shall not insist on the solvency certificate, but other documents can also be perused to find out whether the sureties are solvent or not.

iv. Second petitioner shall appear before the investigating officer as and when directed in writing and co-operate with the investigation.

v. He shall not influence or intimidate the witnesses.

In case of violation of any of the above conditions, the officer concerned is free to arrest the second petitioner as if no order is passed.

A. HARIPRASAD, JUDGE.

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