

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.HARIPRASAD**

**WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937**

**Bail Appl..No. 6602 of 2015**  
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**CRIME NO. 663/2015 OF POTHANIKKADU POLICE STATION, ERNAKULAM RURAL.**  
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**APPLICANT/ACCUSED:**  
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**ABDUL SALAM, AGED 46 YEARS,  
S/O. SAIDU, NEDUNGADU HOUSE,  
VAZHAPPILLI KARA, VELOORKUNNAM VILLAGE,  
MUVATTUPUZHA, ERNAKULAM DISTRICT.**

**BY SRI.P.VIJAYA BHANU (SENIOR ADVOCATE)  
ADVS. SRI.THOMAS J.ANAKKALLUNKAL  
SRI.VIPIN NARAYAN**

**RESPONDENT/COMPLAINANT:**  
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**STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.**

**\*ADDL. R2 IMPEADED**

**2. SALEEM K.HASSAN, AGED 49 YEARS, S/O.HASSAN,  
RESIDING AT KAMBAKUDIYIL HOUSE, SOUHIRDHA NAGAR,  
EAST VAYAPALLY, MUVATTUPUZHA, PINCODE - 686 673.**

**ADDL. R2 IS IMPEADED AS PER ORDER DATED 04.11.2015 IN  
CRL.MA.10129/2015 IN BA.6602/2015.**

**R1 BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH  
ADDL. R2 BY ADV. SRI.PEEYUS A.KOTTAM**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 04-11-2015 ALONG WITH BA.6953/2015, THE COURT ON  
THE SAME DAY PASSED THE FOLLOWING:**

**mbr/**

**A.HARIPRASAD, J.**

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**B.A.Nos.6602 & 6953 of 2015**  
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Dated this the 4<sup>th</sup> day of November, 2015

**C O M M O N O R D E R**

Applications filed under Sections 438 & 439 of the Code of Criminal Procedure.

2. Petitioner is the accused in Crime No.663 of 2015 of Pothanikkadu Police Station registered for the offences punishable under Sections 294(b), 341 and 308 of the Indian Penal Code.

3. Prosecution case is that on 04.10.2015 at about 11.00 a.m., the petitioner knocked down the scooter on which the defacto complainant was travelling. It is an admitted case that there are civil litigations pending between the petitioner and the defacto complainant. It is the prosecution case that with a view to commit culpable homicide, the petitioner forcefully rammed his car on to the motor bike ridden by the defacto complainant. In connection with the incident a counter case is also registered as Crime No.664 of 2015 of the same Police Station under Sections 341, 324 and 326 of the Indian Penal Code.

4. Heard the learned Senior counsel for the petitioner, learned counsel for the defacto complainant and the learned Public Prosecutor. I have perused the case diaries of both the crimes.

5. Learned Senior counsel for the petitioner submitted that after filing B.A.No.6602 of 2015 under Section 438 of the Code of Criminal Procedure, the Police arrested the petitioner disregarding the pendency of the petition before this Court. There was no prohibitory orders in the said anticipatory bail applications. Since the accused has been arrested, B.A.No.6602 of 2015 under Section 438 Cr.P.C has become infructuous.

6. Learned counsel appearing for the defacto complainant contended that the petitioner is having political clout as well as influence in the Police Station. After the incident, he was arrested and went to hospital and got admitted on flimsy grounds. Photographs of the petitioner and the defacto complainant with bleeding injuries have been produced for perusal. It is seen that the defacto complainant sustained injuries on forehead and on the crown in connection with the incident.

7. Learned Senior counsel for the petitioner contended that the petitioner sustained metacarpal fractures and cervical spine injuries. The petitioner is still in hospital undergoing treatment. Along with the bail application a medical certificate issued by a neurosurgeon is produced to show that he sustained compression fracture of C6 vertebra.

8. Considering the nature of allegations and the fact that he is undergoing treatment in a hospital, I am inclined to grant bail to the petitioner with the following strict conditions:

- (a) The petitioner shall be released on bail on his executing a bond for ₹50,000/- (Rupees fifty thousand only) with two solvent sureties for the like sum to the satisfaction of the learned magistrate having jurisdiction.
- (b) The sureties shall produce documents to establish their identity and solvency. The lower court need not insist on solvency certificate, but other documents can also be perused to find out whether the sureties are

solvent or not.

- (c) After discharge from the hospital the petitioner shall appear before the Investigating Officer on all Mondays and Thursdays between 10.00 a.m and 11.00 a.m. until the final report is filed.
- (d) The petitioner shall not intimidate or attempt to influence the witnesses.
- (e) The petitioner shall not in any manner interfere or meddle with the investigation.
- (f) The petitioner shall not, during the period of this bail get involved in any offence.

In case any of the above conditions is violated, bail granted hereby is liable to be cancelled for which the investigating officer may move application before the jurisdictional magistrate.

Sd/-  
**A.HARIPRASAD, JUDGE.**

AS

/True Copy/

P.A. to Judge