

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

Bail Appl..No. 6630 of 2015 ()

CRIME NO. 1146/2014 OF MANNANCHERRY POLICE STATION, ALAPPUZHA DISTRICT

PETITIONER(S)/ACCUSED 1 & 2:

- 1. GOPALAKRISHNAN, AGED 53 YEARS,
S/O. CHEERUNNI, PADANILATHUCHIRA HOUSE,
MAYITHARA MARKET P.O., CHERTHALA,
ALAPPUZHA DISTRICT.**
- 2. BINUMON @ BINU, AGED 25 YEARS,
S/O. GOPALAKRISHNAN, PADANILATHUCHIRA HOUSE,
MAYITHARA MARKET P.O., CHERTHALA,
ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.M.R.ARUNKUMAR
SRI.P.SHAMMI NAVAS
SMT.S.SUCHITRA**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. V.H.JASMINE

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 02-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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K.P.JYOTHINDRANATH, J.

Bail Application No.6630 OF 2015

Dated this the 2nd day of December , 2015

ORDER

This is an application filed under Section 438 of the Code of Criminal Procedure by the accused Nos. 1 and 2 in Crime No.1146/2014 of Mannancherry Police Station, Alappuzha District.

2. When the application came up before this court, the learned counsel for the petitioners submitted before me that actually the version now presented by prosecution in the above referred crime is not correct. It is the submission that there is also a counter case. The F.I.R. of the same is annexed to the bail application. It is the submission that actually the defacto complainant is the aggressor. It is also submitted that the petitioners belongs to the scheduled caste. The crime is that of that of the year 2014.

3. The learned Public Prosecutor submitted before me that here is a case where actually a spade is used to inflict injury on the

skull. It is the further submission that there is also fracture. As such an offence under Section 326 of IPC is also therein. It is the further submission that originally a bail application moved before the Sessions Court was disposed of with a direction to surrender before the Investigating Officer. The said direction was not complied with by the petitioners and thereafter moved again an application before the very same court seeking the very same relief. The said application was dismissed and thereafter moved this application before this Court. So far the petitioners are not arrested even though the crime is that of the year 2014.

4. After hearing the learned Public Prosecutor as well as the learned counsel for the petitioners who submitted before me that the petitioners are ready to surrender before the Investigating Officer, the following order passed :

The petitioners shall surrender before the Investigating Officer within ten days of this order. On such surrender, the Investigating Officer is at liberty to interrogate the petitioners. If the interrogation is not over, the Investigating Officer is at liberty to continue the

interrogation on the next day or on a day fixed by the Investigating Officer which will come within seven days of such surrender. After the interrogation, if the Investigating Officer feels that arrest of the petitioners is necessary, he is at liberty to arrest the petitioners. After the arrest, if any recovery is necessary, that also can be made. Thereafter, the petitioners shall be immediately produced before the concerned Magistrate and if a bail application is moved with advance notice to the Prosecutor regarding the intention of surrender and moving bail application, the said bail application shall be disposed of on the very same day on which the petitioners are produced as directed above.

With the above direction, this application is disposed of.

K.P.JYOTHINDRANATH
JUDGE

SV.