

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

Bail Application No. 6605 of 2014 ()

CRIME NO. 388/2013 OF ANCHALUMMOODU POLICE STATION, KOLLAM

PETITIONER(S)/3RD ACCUSED:

SYAM JOSE, AGED 30 YEARS
S/O.HANOCK, SMITHA BHAVAN, CHITTAYAM
INCHAVILA P.O., PANAYAM, KOLLAM.

BY ADVS.SRI.K.SIJU
SMT.BINDU GEORGE

RESPONDENT(S) :

STATE OF KERALA
THROUGH THE S.I. OF POLICE
ANCHALUMMOODU POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GITHESH R

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
15-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

MARY JOSEPH, J.

=====

B.A No.6605 of 2014

=====

Dated this the 15th day of June, 2015

ORDER

This is an application seeking anticipatory bail filed under Section 438 of the Code of Criminal Procedure. Petitioner is the third accused in Crime No.388 of 2013 of Anchalumoodu Police Station, Kollam, registered for the offences punishable under Sections 323, 324 and 326 r/w Section 34 of the Indian Penal Code.

2. The allegation of the prosecution was that, on 10.03.2013 at about 8 p.m while the de-facto complainant and his friends were waiting near Mundakkal Kurisadi, the petitioner along with other two accused came to the spot in two motor bikes and the first accused came near the de-facto complainant and scolded him for waiting there and bet him with an iron rod. It is also alleged that the accused had also pushed down the de-facto complainant and kicked him and assaulted his friends.

3. Sri.Siju Kamalasanan, the learned counsel for the petitioner, and Sri.Githesh.R, the learned Public Prosecutor, were

also heard in detail. It is urged by the learned counsel for the petitioner that, except this petitioner (the third accused), the first and second accused were already enlarged on bail. It is submitted by the learned counsel that the overt act to attract the offence under Section 326 was alleged against the first accused and this petitioner has no serious involvement.

4. The learned Public Prosecutor has made the Case Diary available to me and submitted on its basis that one among the three injured has sustained fracture to his nasal bone. Attention of this Court is also drawn to the copy of the Accident Register cum Wound Certificate incorporated with the Case Diary by the investigating officer. I am also convinced on a perusal of the Case Diary that one of the injured had sustained a fracture with deformity to his nasal bone. It is further revealed from the Case Diary that the overt act to attract the offence under Section 326 was specifically alleged against this petitioner and not against the first accused as submitted by the learned counsel.

In the circumstances of the case, I do not find any reason to grant the relief sought in this application. In the result, this bail application is disposed of with a direction to the petitioner herein to surrender before the investigating officer at 11:00 a.m on

20.06.2015. The investigating officer is directed to make use of the presence of the petitioner on the day for the purpose of interrogation and in case if it is found that the presence of the petitioner in custody is required for the purpose of investigation, he shall arrest and produce the petitioner before the learned Magistrate concerned on the day itself and shall apply for getting him in police custody to continue with the investigation in accordance with law. The bail application, if any, moved by the petitioner shall be considered by the learned Magistrate on the day itself, in accordance with law.

Sd/-
MARY JOSEPH, JUDGE

v dv