

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

Bail Appl..No. 6778 of 2015

CRIME NO. 382/2015 OF ATHOLY POLICE STATION, KOZHIKODE

PETITIONER(S)/ACCUSED:

**BINEESH, AGED 29 YEARS,
S/O.GANGADHARAN, KANIYANIKUNI, KUNNATHAR POST,
PUTHENCHERY, QUILANDY, KOZHIKODE.**

BY ADV. SRI.MANSOOR.B.H.

RESPONDENT(S)/COMPLAINANT/STATE:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTING STATION HOUSE OFFICER,
ATHOLI POLICE STATION,
KOZHIKODE DISTRICT.**

BY PUBLIC PROSECUTOR SMT.R. REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26-11-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

A.HARIPRASAD, J.

B.A. No.6778 of 2015

Dated this the 26th day of November, 2015

ORDER

Application for pre-arrest bail under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.382 of 2015 of Atholi Police Station registered for offences punishable under Sections 323, 324, 341, 352, 354, 294(b) and 308 I.P.C.

3. Prosecution case, in short, is that the accused went to the hotel run by the defacto complainant and wanted to consume alcohol from the hotel. When it was prevented, he abused the defacto complainant and her husband. Thereafter, after consuming alcohol, he entered the hotel through the back side and he tore the blouse of the defacto complainant and thereby committed the offence under Section 354 I.P.C. It is also alleged that the accused beat the defacto complainant's husband with a firewood. The incident was on 18-10-2015 at about 16.30 hours.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor. I have perused the case diary and the

wound certificate.

5. There is no external injury sustained by the defacto complainant and her husband. Therefore, prima facie, case of committing an offence under Section 308 I.P.C may not lie. However, there are clear indications to constitute an offence under Section 354 I.P.C. Therefore, I am not inclined to grant bail to the petitioner. Hence the bail application is dismissed.

amk

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

//True copy//

P.A to Judge