

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

Bail Appl..No. 6876 of 2015 ()

CRIME NO. 863/2015 OF VITHURA POLICE STATION.

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PETITIONERS/ACCUSED 1 & 2:

- 1. MUBARAK, S/O.ABDUL RASHEED,
AGED 25 YEARS, THOTTINKARA VEEDU,
THOTTUMUKKU, VITHURA P.O.,
THIRUVANANTHAPURAM.**
- 2. MUHAMMED, S/O.ABDUL RASHEED,
AGED 28 YEARS, THOTTINKARA VEEDU,
THOTTUMUKKU, VITHURA P.O.,
THIRUVANANTHAPURAM.**

BY ADV. SRI.G.SUDHEER.

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.R. REMA.

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

rs.

A.HARIPRASAD, J.

B.A.No.6876 of 2015

Dated this the 11th day of November, 2015

O R D E R

Application filed under Section 438 of the Code of Criminal Procedure.

2. Petitioners are accused Nos.1 and 2 in Crime No.863 of 2015 of Vithura Police Station registered for the offences punishable under Sections 447, 294(b), 324, 325 and 326 r/w Section 34 of the Indian Penal Code.

3. Prosecution case is that on 01.10.2015 at about 03.00 hours, the accused trespassed into the house of the defacto complainant and 1st accused attacked him with a wooden reaper causing fracture of facial bone. Second accused punched on his face.

4. Heard both sides.

5. Learned counsel for the petitioners submitted that the defacto complainant is none other than the brother-in-law of the petitioners. He was ill-treating their sister frequently. Medical records and other documents have been produced to show that the defacto complainant

was in the habit of drinking and thereafter, attacking his wife, that is the sister of the petitioners. It is also submitted that civil cases are pending between the parties.

6. Learned Public Prosecutor opposed the bail application. It is submitted that the first accused used a reaper to cause fracture.

7. Considering the facts and circumstances and the nature of the allegations, I am inclined to grant anticipatory bail to the second petitioner with the following conditions:

- (a) In the event of arrest in Crime No.863 of 2015 of Vithura Police Station, the 2nd petitioner shall be released on bail on his executing a bond for ₹25,000/- (Rupees Twenty Five Thousand Only) with two solvent sureties for the like sum to the satisfaction of the Investigating Officer.
- (b) The 2nd petitioner shall appear before the Investigating Officer as and when required

for the purpose of interrogation.

- (c) The 2nd petitioner shall co-operate with the investigation of the case.
- (d) The 2nd petitioner shall not intimidate or attempt to influence the witnesses.
- (e) The 2nd petitioner shall not in any manner interfere or meddle with the investigation.
- (f) The 2nd 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.

8. Insofar as the 1st petitioner is concerned, I am not inclined to grant bail to him. Hence, the following directions are issued.

The 1st petitioner shall surrender before the Investigating Officer within a period of 'two weeks' from today and submit himself for

interrogation. The Investigating Officer shall produce him before the learned Magistrate having jurisdiction on the date of surrender itself. Thereafter, the 1st petitioner is free to move for bail before the learned Magistrate and in that event, the learned Magistrate may consider the application on merits if possible on the date of surrender itself.

Sd/-
A.HARIPRASAD, JUDGE.

AS

/True Copy/

P.A. to Judge