

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

Bail Appl..No. 6885 of 2014

**CRIME NO. 1328/2014 OF ERNAKULAM CENTRAL POLICE STATION ,
ERNAKULAM DISTRICT**

PETITIONER(S)/ACCUSED :

**MOHAMMED RAFI,
S/O.ABDUL RAHIMAN P.S., CHETTUMKUZHI HOUSE,
HIDAGATHNAGER P.O., VIDGA NAGER, KASARGOD-671 123.**

BY ADV. SRI.E.A.BIJUMON

RESPONDENT(S)/COMPLAINANT :

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTING THE S.I. OF POLICE,
ERNAKULAM CENTRAL POLICE STATION,
ERNAKULAM DISTRICT.**

BY PUBLIC PROSECUTOR SMT.LALIZA.T.Y

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

B.KEMAL PASHA, J.

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B.A. No. 6885 of 2014

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Dated this the 11th day of March, 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the 1st accused in Crime No.1328/2014 of the Ernakulam Central Police Station, registered for the offences punishable under Sections 294(b), 323 and 326 read with Section 34 IPC.

3. The allegation against the petitioner and the other accused is that on 16.6.2014 at 10.30 p.m., they abused the de facto complainant, and the 1st accused beat on his head and back with a cricket stump, the 2nd accused beat him with a tube light, the 3rd accused kicked him down and A3 and A4 stamped and fisted him. When the de facto complainant warded off the blow aimed at his head with his left hand, he sustained the fracture of his left ulna.

4. Heard learned counsel for the petitioner and learned Public Prosecutor.

5. The contents of the C.D. reveal that subsequent to the registration of the crime, the de facto complainant has resorted to a contention that he was not attacked by the petitioner and the other accused, whereas he fell down and sustained the fracture. The investigating officer has reported that the matter was illegally compromised by the de facto complainant with the petitioner and the other accused, thereby the de facto complainant has changed his version regarding the incident. Whatever it is, presently, it is doubtful whether the petitioner has been implicated falsely in the case or not. Considering the facts and circumstances of the case, and the present stand taken by the de facto complainant, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioner.

6. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioner, is directed to enlarge the petitioner on bail in the event of his arrest on his executing a bond for ₹25,000/-

(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) The petitioner shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Wednesdays and Saturdays, commencing from 18.03.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The petitioner shall not tamper with the evidence or influence witnesses.

(iii) The petitioner shall make himself available for interrogation as and when required by the investigating officer.

(iv) The petitioner shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

Sd/-
B.KEMAL PASHA, JUDGE