

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. 6974 of 2015 ()

**CRIME NO. 1312/2015 OF NEYYATTINKARA POLICE STATION ,
THIRUVANANTHAPURAM DISTRICT**

PETITIONERS/ACCUSED 1,2,4:

- 1. DINESH KUMAR @ SUBHASH,
S/O BABU,AGED 26 YEARS,
KADUTHARISU VEEDU, AVANAKUZHY,
THANNIMOODU P.O., NEYYATTINKARA.**
- 2. UNNI.J, S/O JAYACHANDRAN, AGED 26 YEARS,
KADUTHARISU VEEDU, AVANAKUZHY,
THANNIMOODU P.O., NEYYATTINKARA.**
- 3. VIPINKUMAR, S/O NAGAPPAN,AGED 26 YEARS,
KULAVARAMBA VEEDU, VENPAKAL,
VENPAKAL P.O., NEYYATTINKARA.**

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. 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.6974 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.

2. When the matter came up before this Court, it is submitted by the learned counsel for the petitioners that the petitioners are apprehending arrest and detention in connection with Crime No.1312/2015 of Neyyattinkara Police Station. It is submitted that the said crime is registered for the offences under Sections 341, 294(b), 326, 308 r/w Section 34 of IPC. It is the submission made before me that even though there is an allegation of commission of offence under Section 326 of IPC, actually there is only an alleged nasal fracture. It is the further submission that nasal fracture can be occurred even by a fall. It is also submitted before me that the alleged weapon of offence is a broken soda bottle. No stretch of imagination can say that an

injury caused by a soda bottle will cause a nasal fracture. Then the corollary is that the injury by which Section 326 invoked is not by using a soda bottle, that also a broken soda bottle. It is also submitted that copies of the wound certificates of the petitioners 1 and 2 are annexed to the petition herein which will show that there are injuries on the bodies of the petitioners also. It is also the submission that the version now put forward by the prosecution is not correct.

3. I heard the learned Public Prosecutor also. The learned Public Prosecutor submitted before me that in this case there is a nasal fracture and there is an offence under Section 326 of IPC. It is submitted that custodial interrogation is highly necessary and recoveries also has to be effected. Under such circumstances, it may not be proper to grant anticipatory bail by invoking the extra ordinary jurisdiction vested upon this Court.

4. After hearing the learned counsel on both sides and after appreciating the materials produced by the petitioners herein, I feel that it may only just and proper to pass the following order :

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 on that day, 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 police 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.

With the above direction, this application is dismissed.

K.P.JYOTHINDRANATH
JUDGE

SV.