

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

Bail Appl..No. 7148 of 2015 ()

CRIME NO. 522/2015 OF TIRUR POLICE STATION , MALAPPURAM DISTRICT

APPLICANT/ACCUSED:

**ABDUL GAFOOR, AGED 46 YEARS,
S/O. AHAMEDKOYA, NO.16/1, 25TH MAIN,
6TH PHASE, A R LAYOUT, J P NAGAR,
BANGALORE, NOW RESIDING AT: HILLS DALE,
FLAT NO.6B, RAJIV NAGAR, PUTHIYARA, CALICUT -673 004**

**BY ADVS.SRI.P.VENUGOPAL
SMT.T.J.MARIA GORETTI**

RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT. R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 01-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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A.HARIPRASAD, J.

B.A. No.7148 of 2015

Dated this the 1st day of December, 2015

ORDER

Application under Section 438 of the Code of Criminal Procedure.

2. Petitioner is the accused in Crime No.522 of 2015 of Tirur Police Station registered alleging offences punishable under Sections 143, 147, 148, 341, 323, 324, 325, 308 and 506(i) read with Section 149 of the Indian Penal Code. He seeks pre-arrest bail.

3. It is alleged that on 21.03.2015 at about 11.00 p.m. while the defacto complainant and another were walking, the petitioner and some others formed into an unlawful assembly, armed with iron rod and other weapons, waylaid the defacto complainant and attacked him causing injuries. They intended to commit culpable homicide is the allegation.

4. Heard both sides.

5. Learned counsel for the petitioner submitted that the learned Sessions Judge as per Annexure-A order dated 10.04.2015 on CrI.M.C.No.564 of 2015 granted pre-arrest bail to the petitioner considering that the case of the defacto complainant is improbable and there is undue delay in lodging the complaint. Further, no serious injuries could be noticed by the learned Sessions Judge. As per the order in CrI.M.C., the petitioner was directed to appear before the investigating officer on 16.04.2015 at 10.00 a.m.. Other conditions were also imposed. Learned counsel submitted that due to urgent family matters petitioner, who is working abroad for long, had to return on 08.04.2015, ie., two days before the passing of order in CrI.M.C. Therefore, the petitioner could not comply with the conditions in the bail order as he was out of India and his non-compliance was not deliberate. The defacto complainant then moved an

application in the CrI.M.C. before the learned Sessions Judge seeking cancellation of the bail order as the petitioner did not comply with the terms of the order. As per Annexure-C order the bail order was canceled. Thereafter the petitioner came down to his native place and moved for bail again before the learned Sessions Judge. It was dismissed as per Annexure-D order finding that the petitioner did not obey the directions in the earlier order. Learned counsel submitted that the petitioner did not show any disrespect to the orders of the court. As he had to go to his work place for urgent purposes, he left the country even before passing the order. It is also submitted that he was not wilfully disobeying the order of the court.

Considering the facts and circumstances, following directions are issued:

i. Petitioner shall surrender before the investigating officer within a period of two weeks and submit himself for interrogation. Thereafter he shall execute a bond for ₹50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the investigating officer. In that event, he shall be released on bail in Crime No.522 of 2015 of Tirur Police Station.

ii. The sureties shall produce documents to establish their identity and solvency. The investigating officer shall not insist on the solvency certificate, but other documents can also be perused to find out whether the sureties are solvent or not.

iii. Petitioner shall appear before the investigating officer as and when directed in writing and co-operate with the investigation.

iv. He shall not influence or intimidate the witnesses.

In case of violation of any of the above conditions, the officer

concerned is free to arrest the petitioner as if no order is passed.

A. HARIPRASAD, JUDGE.

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