

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V**

**FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937**

**Bail Appl..No. 7329 of 2015**  
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**CRIME NO. 526/2015 OF NILESWARAM POLICE STATION , KASARAGOD DISTRICT**  
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**PETITIONER(S)/ACCUSED NOS.1 TO 6 :**  
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- 1. NOUSHAD, AGED 36 YEARS,  
S/O.MUHAMEDKUNHI, RESIDING AT T.P.HOUSE,  
NEAR BOAT JETTY, THAIKADAPURAM, NILESWAR VILLAGE,  
HOSDURG TALUK.**
- 2. SHAREEF,  
AGED 34 YEARS, RESIDING AT T.P.HOUSE, NEAR BOAT JETTY,  
THAIKADAPURAM, NILESWAR VILLAGE, HOSDURG TALUK.**
- 3. ABID P.,  
AGED 35 YEARS, S/O.KAREEM, NEAR BOAT JETTY,  
THAIKADAPURAM, NILESWAR VILLAGE, HOSDURG TALUK.**
- 4. BILAL T.C., S/O.SRI.SADIQUE A.P.,  
AGED 25 YEARS, T.C.HOUSE, THAIKADAPURAM,  
NILESHWAR VILLAGE, HOSDURG TALUK.**
- 5. JABER, S/O.MUHAMEDKUNJU,  
AGED 24 YEARS, T.P.HOUSE, THAIKADAPURAM,  
NILESHWAR VILLAGE, HOSDURG TALUK.**
- 6. SHEFEEQ P.P., S/O.ASSANAR P.P.,  
AGED 25 YEARS, THAIKADAPURAM, NILESHWAR VILLAGE,  
HOSDURG TALUK.**

**BY ADVS.SRI.PREMCHAND R.NAIR  
SRI.GEORGE BRISTON  
SMT.C.A.RAKHI ANTONY**

**RESPONDENT(S)/COMPLAINANT :**  
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**STATE OF KERALA,  
REPRESENTED BY STATION HOUSE OFFICER,  
REPRESENTED THROUGH PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31**

**BY GOVERNMENT PLEADER SRI.DHANESH MATHEW MANJOORAN**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 27-11-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**RAJA VIJAYARAGHAVAN.V. J**

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B.A.7329 of 2015  
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Dated 27<sup>th</sup> November, 2015  
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**ORDER**

- 1.This is an application filed u/s 438 of the Code of Criminal Procedure seeking pre-arrest bail.
- 2.The petitioners herein are accused Nos.1 to 6 in Crime No.526 of 2015 of Neeleswaram police station. They are alleged to have committed offence punishable u/s 143, 147, 148, 452, 341, 323, 354, 363, 324, 342, 506 (ii) r/w S.149 and 34 of the IPC.
- 3.The prosecution allegation is that on 23.10.2015 at about 1.30 p.m, while the de facto complainant was in her daughter's house at Kottappuram, petitioners trespassed into the house and enquired about her son Shihab. It is further alleged that when the defacto complainant refused to disclose his whereabouts, the petitioners had assaulted the de facto complainant and

attempted to outrage her modesty.

4.I have heard the learned counsel appearing for the petitioners as well as the learned Public Prosecutor.

5.The learned counsel appearing for the petitioners on the strength of the FI statement furnished by the de facto complainant submitted that in respect of the incident which occurred at 1.30 p.m, statement is seen lodged only at 7.30 p.m on the same day. It was pointed out that the medical records would reveal the falsity of the prosecution version.

6.The learned Public Prosecutor, on the other hand, submitted that the de facto complainant had given an additional statement later that her son was kidnapped by the petitioners. The wound certificate produced reveals that within an hour of the incident, the de facto complainant as well as her son has obtained medical treatment. The injuries allegedly sustained by the

defacto complainant and her son appears to be trivial whereas the allegation is that both of them were brutally assaulted . A perusal of the case diary , prima facie , persuades me to hold that custodial interrogation is not warranted in the instant case.

7. Therefore, considering the entire facts and circumstances, I am of the view that this application can be allowed with stringent conditions:-

i. Petitioners shall, within a period of one week, surrender before the investigating officer and submit themselves for interrogation. Thereafter, the petitioners shall execute a bond for Rs. 50,000/- (Rupees one lakh only) each with two solvent sureties each for the like sum to the satisfaction of the investigating officer. In that event they shall be released on bail.

ii. Petitioners shall appear before the investigating officer at 10.00 a.m. on

the next two consecutive days and submit themselves for interrogation.

iii. If the investigating officer requires the attendance of the petitioners on any further occasion than the days mentioned above, he can direct the petitioners in writing to appear and co-operate with the investigation.

iv. Petitioners shall surrender their passports before the Magistrate concerned in one week from the date of appearance before the investigating officer. If any of the accused does not have a passport, he shall swear to an affidavit showing that fact and submit it before the learned Magistrate having jurisdiction.

v. Petitioners shall not influence or intimidate the witnesses. They shall not meddle in any manner with the investigation.

vi. Petitioners shall not leave the

limits of State of Kerala without the permission of the Magistrate concerned.

vii. If any of the conditions above is violated, the Magistrate having jurisdiction is empowered to cancel the bail in accordance with law without referring the matter to this Court.

The application is allowed as above.

Sd/-  
**RAJA VIJAYARAGHAVAN.V.**  
**Judge**

MrCS

/True copy/

P.S to Judge