

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. 7473 of 2015

CRIME NO. 124/2015 OF PETTA POLICE STATION, THIRUVANANTHAPURAM

PETITIONERS/IST AND 2ND ACCUSED:

- 1. JOSH Y, AGED 62 YEARS,
S/O MANUEL V.T., JOJO BHAVAN, VENPALAVATTOM
ANAYARA P.O.**
- 2. JAYAN S, AGED 67 YEARS,
S/O SAHADEVAN C, TC 79/1052, KARIKKAKOM P.O.,
TRIVANDRUM.**

**BY ADVS.SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN**

RESPONDENT/STATE:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**

BY PUBLIC PROSECUTOR SMT.T.Y.LALIZA

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

PJ

A.HARIPRASAD, J.

B.A. No7473 of 2015

Dated this the 1st day of December, 2015

ORDER

Petition under Section 438 of the Code of Criminal Procedure.

2. Petitioners are accused Nos.1 and 2 in Crime No.124 of 2015 of Pettah Police Station registered for offences punishable under Sections 452, 324, 323 and 308 r/w Section 120(d) of the Kerala Police Act, 2011.

3. Prosecution case, in short, is that on 16-10-2015 at about 8.45 p.m., the accused persons in connection with pasting of a poster, picked up a quarrel with the defacto complainant. He was assaulted by the accused persons. Thereafter, first accused came again with an iron pipe and attacked the defacto complainant after trespassing into his shop and causing injuries on head.

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

5. Learned counsel for the petitioners submitted that there

was altercation between the defacto complainant and the accused persons and in the scuffle ensued, they fell down and the defacto complainant sustained injuries. Learned Public Prosecutor produced the case diary. Apart from the statement of the defacto complainant, two independent witnesses have been testified that the first accused used an iron pipe to attack the defacto complainant. The injuries seen from the wound certificate are not very serious. I am not inclined to grant pre-arrest bail to the first petitioner. Hence, following directions are made :

The first petitioner shall surrender before the Investigating Officer within two weeks from today and submit himself for interrogation. The Investigating Officer shall produce him before the Court having jurisdiction on the date of surrender itself. Thereafter, the petitioner is free to move for regular bail before the Court having jurisdiction. In that event, the learned Judge shall consider the application as expeditiously as possible on merits, if possible on the date of surrender itself. If the petitioner fails to surrender as mentioned above, the

investigating officer is free to arrest him as if no order has been passed in this case.

6. The allegation against the second petitioner is that he has restrained the defacto complainant. Considering the nature of allegations, I am inclined to grant pre-arrest bail to the second petitioner. Hence, following directions are made :

1. Second petitioner shall surrender before the investigating officer within a period of two weeks from today and submit himself for interrogation. In that event, he shall be released on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the Investigating Officer.
2. The sureties shall produce documents to establish their identity and solvency.
3. Petitioner shall appear before the Investigating Officer as and when directed.
4. Petitioner shall not influence or intimidate witnesses.

5. If any of the above conditions is violated by the petitioner, the learned Magistrate having jurisdiction is free to cancel the bail.

Sd/-

**A.HARIPRASAD,
JUDGE.**

//True copy//

P.A to Judge

amk