

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

Bail Appl..No. 7648 of 2014 (A)

SC 952/2008 of ADDL.SESIONS COURT (ADHOC)III, THIRUVANANDAPURAM
CRIME NO. 97/2006 OF KADINAMKULAM POLICE STATION , THIRUVANANTHAPURAM

PETITIONER/13TH ACCUSED:

BENNET, AGED 44 YEARS
S/O.ROBERT, R/A.BENSTAN VILLA
NEAR PUTHUKURICHI POURA SAMATHI, PUTHUKURICHI
KADINAMKULAM VILLAGE, THIRUVANANTHAPURAM

BY ADV. SRI.M.DINESH

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REP BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM-682031

BY PUBLIC PROSECUTOR, SRI.RAJESH VIJAYAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02-06-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Bail Application No.7648 of 2014 A

Dated this the 2nd day of June 2015

O R D E R

The petitioner is the 13th accused in Crime No.97/2006 of Kadinamkulam Police Station registered under Sections 143, 147, 148, 323, 324, 452 and 427 read with Section 149 of I.P.C. and Sections 3 and 5 of Explosive Substances Act.

2. The prosecution allegation is that on 25.6.2000 at 2.45 a.m., the petitioner and the other accused, in furtherance of their common intention, attacked the *defacto complainant* with iron pipes causing injuries on him. The petitioner has filed this petition seeking for the relief under Section 438 Cr.P.C.

3. Heard.

4. It is submitted by the learned counsel for the petitioner that accused Nos.1 to 9, 11, 12 and 14 to 17 appeared before the Court and faced the trial, in which all of them were acquitted by the trial court. In the said circumstances, the learned counsel for the petitioner has pleaded for granting the relief under Section 438 Cr.P.C. in favour of the petitioner. It has been fairly submitted by the learned counsel for the petitioner that the petitioner was already granted bail by the court during the crime stage. Since the petitioner was already granted bail by the court during the crime stage, the question of granting the relief under Section 438 Cr.P.C. does not arise at all. In the said circumstances, I do not find any merit in this petition. Accordingly, I dismiss the same.

However, the petitioner shall be at liberty to surrender before the Magistrate court concerned and apply for regular bail, if so advised. If the petitioner surrenders before the court and files application for regular bail, after giving notice in advance to the

B A.7648/2014

3

Assistant Public Prosecutor, the learned Magistrate shall consider and dispose of the application, in accordance with law, as expeditiously as possible and preferably on the date of surrender itself.

Sd/-

**B.SUDHEENDRA KUMAR,
JUDGE**

dl

// TRUE COPY //

PA TO JUDGE