

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

Bail Appl..No. 7884 of 2015

CRIME NO. 399/2015 OF CHITTARIKAL POLICE STATION , KASARAGOD DISTRICT

PETITIONER(S)/ACCUSED IN CRIME NO.399 OF 2015 OF CHITTARIKKAL POLICE
STATION, KASARAGOD DISTRICT :

ANEESH A.C., AGED 31 YEARS,
S/O.CHANDRASHEKAHARAN, RESIDING AT PUTHARIYAMKALLU,
PALAKKUNNU, BEEMANADI VILLAGE, VELLARIKUNDU TALUK,
KASARAGOD DISTRICT.

BY ADVS.SRI.RAHUL SASI
SMT.NEETHU PREM

RESPONDENT(S) :

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, KOCHI-682 031.

BY PUBLIC PROSECUTOR SMT.MADHUBEN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 17-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Msd.

K.P.JYOTHINDRANATH, J.

B.A.No.7884 OF 2015

Dated this the 17th day of December , 2015

ORDER

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973. When the application came up for hearing, the learned counsel for the petitioner submitted before me that the petitioner is the first accused in Crime No.399 of 2015 of Chittarikkal police station. It is the submission of the learned counsel for the petitioner that the petitioner is apprehending arrest and detention in connection with the above crime which is now registered for an offence under Section 308 of IPC. It is the submission that an offence which will only come under Section 324 of IPC is given the colour of Section 308 of IPC and he apprehends arrest and detention.

2. I heard the learned Public Prosecutor. The learned Public Prosecutor submitted before me that in this case there is a motive for such an incident. The defacto complainant was alleged to have some

illicit relationship with the wife of the second accused. Due to that animosity, in furtherance of their common intention, accused Nos. 1 and 2 attacked the defacto complainant. The first accused herein was equipped with a chopper, whereas the second accused was having a stick. It is the submission that as per the case diary, it can be seen that a radius fracture, and tenden tent and cut are sustained by the defacto complainant. The injuries are very serious. It is also brought to my notice that even if Section 308 of IPC is not therein, an offence under Section 326 of IPC will lie against the petitioner. It is also submitted that the petitioner is the person who equipped with chopper.

3. At this juncture, the learned counsel for the petitioner submitted before me that the allegation is that the petitioner was equipped with a chopper, but it can be seen that there is no external injury corresponding to the radius fracture which will belie the allegation of the prosecution case itself. It is also submitted that the place of the incident is also to be considered by this Court.

4. After considering all the submissions and the wound certificate, I feel that this is not a fit case where anticipatory bail can be

granted. But surely the petitioner can very well surrender before the Police within ten days of this order. On such surrender, the investigating officer is at liberty to interrogate the petitioner. After interrogation, if any recovery is necessary, that also can be made. Thereafter, the petitioner shall be produced before the concerned Magistrate and if a bail application is moved by giving advance notice to the Prosecutor regarding the intention of surrender and moving of bail application, the same shall be considered expeditiously, surely only if custody application is not moved by Police.

The bail application is accordingly dismissed.

K.P.JYOTHINDRANATH
JUDGE

SV.