IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

Bail Appl..No. 7877 of 2014

CRIME NO. 1591/2014 OF SASTHAMCOTTA POLICE STATION , KOLLAM

PETITIONER(S)/ACCUSED NO.1 AND 2:

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1. **SHAJI, AGED 32 YEARS,**
   S/O.KARTHIKEYAN, SHAJI BHAVANAM, KUNNATHUR
   KIZHEKKEMURI, KUNNATHUR VILLAGE,
   KUNNATHUR TALUK
   KOLLAM.

2. **JAYACHANDRAN, AGED 52 YEARS**
   S/O.APPUKUTTAN, CHANDRALAYAM, EDAKKATTUMURI
   PORUVAZHY VILLAGE, KOLLAM.

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENT(S)/COMPLAINANTS/STATE:

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

2. **THE SUB INSPECTOR,**
   SASTHAMCOTTA POLICE STATION,
   KOLLAM DISTRICT-691001.

* **ADDL.R3 IMPLEADED**

3. **SUDHEESHANA KUMARY, W/O.SADEESA BABU,**
   S.S.BHAVAN, NADUVILA MURI, KUNNATHOOR VILLAGE,
   NEDIYAVILA, KOLLAM.

ADDL.R3 IMPLEADED AS PER ORDER DATED 15/1/2015 IN CRL.MA.10769/14

R1 & 2 BY PUBLIC PROSECUTOR SMT.LALILZA T.Y.
R3. BY ADV. SRI.B.MOHANLAL

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PJ

B. KEMAL PASHA, J.

B.A. No.7877 of 2014

Dated this the 15th day of January, 2015

O R D E R

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Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.1 and 2 in Crime No.1591/2014 of Sasthamcotta Police Station registered for the offences punishable under Sections 447, 326, 354 and 427 read with Section 34 IPC.

3. The *defacto complainant* woman is conducting a driving school at the upstairs of a building owned by the 1st petitioner. As an attempt of forcible eviction, it is alleged that, on 25.10.2014 at 10.30 a.m. the petitioners committed house trespass into the premises of the driving school being conducted by the *defacto complainant* woman and attacked her. It is alleged that the 1st petitioner inflicted cuts on her face with a sword stick and he along with the 2nd petitioner caught hold of her and severely outraged her modesty.

4. Heard the learned counsel for the petitioners, the learned counsel for the *defacto complainant* and the learned Public Prosecutor.

5. The contents of the CD *prima facie* reveal the complicity of the petitioners. The present version of the police is that the 1st petitioner had not made use of any sword stick, whereas he had made use of an iron bar and the same itself has not been recovered yet. On going through the wound certificate as well as the report issued from the Department of Plastic Surgery of the Hospital, it seems that there was total amputation of the left ala region of the nose of the *defacto complainant* and it was a clear cut injury. There were two other incised wounds on the face placed transversely over the forehead. Repair of nose and forehead injuries was done through plastic surgery. The present version of the investigating officer that sword was not used, seems to be false. The said weapon allegedly made use of by the 1st petitioner has not been recovered.

The allegation against the petitioners are very grave and serious. The investigation has a long way to go. I do not think that the investigation is on the correct lines. Considering the seriousness of the allegations against the petitioners, I am of the view that this is not a fit case wherein anticipatory bail can be granted to the petitioners.

In the result, this bail application is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/15/01

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PA to Judge