

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

Bail Appl..No. 8387 of 2014 ()

CRIME NO. 737/2014 OF VATTAPPARA POLICE STATION , THIRUVANANTHAPURAM

PETITIONERS/ACCUSED 1 TO 3:

1. RAJESH AGED 25 YEARS
S/O.RAJU, NALLIKUNNU VEEDU, PANTHALACODE
VATTAPPARA.
2. SARATH, AGED 25 YEARS
S/O.MADHUSOODHANAN NAIR, NEDUVILA POIKALYIL VEEDU
PANTHALACODE, VATTAPPARA.
3. RATHEESH AGED 23 YEARS
S/O.RAJU, NALLIKUNNU VEEDU, PANTHALACODE
VATTAPPARA.

BY ADV. SRI.A.RAJASIMHAN

RESPONDENT:

STATE OF KERALA THROUGH THE SUB INSPECTOR
VATTAPPARA POLICE STATION, THIRUVANANTHAPURAM
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR, SMT.LALIZA T.Y.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
28-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.KEMAL PASHA, J.

B.A.No.8387 of 2014

Dated this the 28th day of January 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.1 to 3 in Crime No.737/2014 of Vattappara Police Station registered for the offences punishable under Sections 323, 324 and 308 read with Section 34 of the Indian Penal Code.

3. The allegation against the petitioners is that on 31.8.2014 at 9 p.m., the first petitioner inflicted cuts on the head of the de-facto complainant with a chopper, thereby causing very serious injuries and second petitioner fisted on the nose of the de-facto complainant. It is alleged that the third petitioner pushed

down the de-facto complainant. When the friend of the de-facto complainant intervened for his rescue, the first accused inflicted cuts on the friend of the de-facto complainant with the chopper, thereby causing serious injuries.

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

5. According to the learned counsel for the petitioners, in fact the petitioners were attacked by the de-facto complainant and his friend, thereby causing serious injuries to them. Copies of the wound certificates of the de-facto complainant Rajeesh and his friend Praveen have been produced by the Investigating Officer along with the report, which show that the de-facto complainant sustained a lacerated wound of 8x2 c.m. over the right side of his forehead and Praveen sustained a lacerated wound of 10x8 c.m. over the left forearm. It seems that they sustained very serious injuries. The learned counsel for the petitioners has produced the

wound certificates of accused Nos.1 and 2, which show that they sustained trivial injuries.

6. The allegations against the first accused are very grave and serious that he had made use of a chopper and inflicted cuts on the forehead of the de-facto complainant and left forearm of the friend of the de-facto complainant. Corresponding injuries based on the allegations are there in the wound certificates. At the same time, there is no allegation against petitioners 2 and 3 that they have made use of any weapon. The only allegation against them is that they slapped the de-facto complainant and his friend. Considering the facts and circumstances of this case, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioners 2 and 3. At the same time, considering the seriousness of the allegations against the first petitioner, I am satisfied that he is not entitled to the discretionary relief of anticipatory bail.

7. In the result, this bail application is allowed in part and the investigating officer or such other police officer, who is conducting the arrest of the petitioners 2 and 3, is directed to enlarge the petitioners 2 and 3 on bail in the event of their arrest on each of them 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 officer conducting arrest, and subject to the following terms and conditions:-

(i) Petitioners 2 and 3 shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Wednesdays and Saturdays, commencing from 4.2.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) Petitioners 2 and 3 shall not tamper with the evidence or influence witnesses.

(iii) Petitioners 2 and 3 shall make themselves available for interrogation as and when required by the investigating officer.

(iv) Petitioners 2 and 3 shall not involve in any

offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

This bail application, as far as the first petitioner is concerned, stands dismissed.

Sd/-
B.KEMAL PASHA,
JUDGE

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PA to Judge

