

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

Bail Appl..No. 8543 of 2014 ()

CRIME NO. 2090/2014 OF KUNNAMKULAM POLICE STATION.

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PETITIONERS/ACCUSED 3 AND 4:

- 1. SHIJU, S/O. KUMARAN,
AGED 31 YEARS, PALLIKKARA HOUSE,
KATTAKAMPAL P.O., THRISSUR DISTRICT-680 544.**
- 2. RIYAS M.K., S/O. KUNJIPPA,
AGED 28 YEARS, MAMPULLYNJALIL HOUSE,
KATTAKAMPAL P.O., THRISSUR DISTRICT-680 544.**

BY ADV. SRI.P.RAMACHANDRAN.

RESPONDENTS/COMPLAINANT:

- 1. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. THE SUB INSPECTOR OF POLICE,
KUNNAMKULAM POLICE STATION,
KUNNAMKULAM P.O., THRISSUR DISTRICT-680 503.**

BY PUBLIC PROSECUTOR SMT.BINDU GOPINATH.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 20-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

B.KEMAL PASHA, J.

B.A.No.8543 of 2014

Dated this the 20th day of January 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.3 and 4 in Crime No.2090/2014 of Kunnankulam Police Station registered for the offences punishable under Sections 143, 147, 148, 341, 323, 324, 506(ii) and 307 read with Section 149 of the Indian Penal Code.

3. The allegation against the petitioners and the other accused is that on 11.9.2014 at 9 p.m., they formed themselves into an unlawful assembly armed with deadly weapons, like sword and iron pipes and wrongfully restrained the de-facto complainant, who was coming on his motor bike on the road. It is also alleged that the second accused beat the de-facto complainant, allegedly on his right hand and right leg with an iron pipe and thereafter, the first

accused inflicted cuts on the head of the de-facto complainant with a sword. It is also alleged that the other accused, who were also present, slapped and stamped the de-facto complainant and dragged him through the road, through a considerable distance, thereby causing injuries to him.

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

5. It seems that the de-facto complainant sustained very serious injuries. He has suffered fracture of both bones of his right leg and right hand. He has suffered other injuries also. Even though the learned counsel for the petitioners has pointed out that there is no allegation that they have made use of any weapon, the allegations against the petitioners are of very serious in nature. Considering the facts and circumstances of the case and the seriousness of the allegations against the petitioners, I am of the view that the petitioners are not entitled to the discretionary relief of anticipatory bail. At the same time, when there is no allegation

that weapons were made use of by the petitioners, I am of the view that an opportunity can be granted to the petitioners to surrender before the Investigating Officer and to co-operate with the investigation.

In the result, this bail application is dismissed. At the same time, if so advised, the petitioners may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioners, effect recovery if any, and conduct the investigation and produce the petitioners without delay before the concerned Judicial First Class Magistrate's Court, where the petitioners can move for bail. In such case, the learned Magistrate shall pass appropriate orders, preferably on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

Sd/-
B.KEMAL PASHA,
JUDGE

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PA to Judge