

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

Bail Appl..No. 8746 of 2014 ()

CRIME NO. 640/2014 OF EDAKKARA POLICE STATION,
MALAPPURAM DISTRICT

PETITIONERS/ACCUSED :

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1. JIBY.PA., AGED 34 YEARS,
S/O ABRAHAM, PLAMTHOTTATHIL HOUSE, THONIKKAL,
THEYYANTHUIPADAM POST, EDAKKARA VIA, NILAMBUR TALUK
MALAPPURAM DISTRICT.
 2. JOHN K.U. @ KALAPURAKKAL KUNHACHAN, AGED 56 YEARS,
S/O ULAHANNAN, KALAPPURAKKAL, THONIKKAL,
THEYYATHUIPADAM POST, EDAKKARA VIA, NILAMBUR TALUK
MALAPPURAM DISTRICT.
 3. SURESH P.T., AGED 42 YEARS,
S/O CHAYICHAN, PATTANMARTHODIYIL, VADAKKUMTHODIKA,
EDAKKARA POST, NILAMBUR TALUK, MALAPPURAM DISTRICT.

BY ADVS.SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN

RESPONDENT/COMPLAINANT-STATE :

STATE OF KERALA
REP. BY THE SUB INSPECTOR OF POLICE,
EDAKKARA POLICE STATION, MALAPPURAM DISTRICT
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.

BY PUBLIC PROSECUTOR SRI.V.S. SREEJITH

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 23-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

bp

B. KEMAL PASHA, J.

.....
B.A. No.8746 of 2014
.....

Dated this the 23rd day of January, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.2 and 3 in Crime No.640/2014 of Edakkara Police Station, Malappuram district, registered for the offences punishable under Sections 341 and 326 read with Section 34 IPC.

3. The allegation against the petitioners is that, on 29.10.2014 at 8 a.m. the 1<sup>st</sup> accused wrongfully restrained the *defacto complainant* on the road and A2 and A3 repeatedly beat the *defacto complainant* with wooden sticks, thereby causing fracture of the bones of both his hands and other injuries.

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

5. The contents of the CD *prima facie* reveal the

complicity of the petitioners. According to the learned counsel for the petitioners, the *defacto complainant* is a main trouble maker of the locality and he is involved in many cases and the incident had occurred when he attempted to cause his motor bike to hit on the petitioners. It seems that the *defacto complainant* has sustained fracture of the shaft of his left humerus, fracture of his right ulna, contusions on right and left leg and abrasions on right scalp and lacerated wound on scalp 4 x 2 cm. Considering 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, I am of the view that, while dismissing this bail application, an opportunity can be granted to the petitioners to surrender before the investigating officer and to co-operate with the investigation and to effect recovery of the weapon used.

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)**

aks/23/01

*// True Copy //*

*PA to Judge*