

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

Bail Appl..No. 8833 of 2014

CRIME NO. 2041/2014 OF VARKALA POLICE STATION , THIRUVANANDAPURAM

PETITIONER(S)/1ST ACCUSED:

**NASEEM,
NAZEEM MANZIL, VADASSERIKONAM (PO),
THIRUVANANTHAPURAM**

BY ADV. SRI.C.R.SIVAKUMAR

RESPONDENT(S)/COMPLAINANT:

- 1. THE STATE OF KERALA,
REP.BY SUB INSPECTOR OF POLICE,
VARKALA POLICE STATION,
THIRUVANANTHAPURAM DISTRICT.**
- 2. PRABHAKARAN, S/O.JANARDHANAN,
SMITHA BHAVAN, THACHANKONAM, VARKALA,
THIRUVANANTHAPURAM DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SMT.LALIZA
R2 BY ADV. SRI.PRATHAP PILLAI**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08-01-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

B. KEMAL PASHA, J.

.....
B.A. No.8833 of 2014
.....

Dated this the 8th day of January, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioner is arraigned as the 1st accused in Crime No.2041/2014 of Varkala Police Station registered for the offences punishable under Sections 294(b), 452, 323, 324 and 427 read with Section 34 IPC.

3. It is alleged that the accused in the said case had demanded a glass tumbler and water from the shop of the *defacto complainant* for consuming liquor and as he was not willing to part with it, they trespassed into the shop, attacked the *defacto complainant* and committed mischief in the shop.

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

5. The petitioner has a specific case that he has been falsely implicated by the Sub Inspector of Police, Varkala in a case like this on account of his previous enmity towards him. On earlier occasion also, the petitioner was implicated in a case by the very same police officer in the said crime registered as Crime No.286/2013 of Kallambalam Police Station, while the said police officer was working as the Sub Inspector of Police, Kallambalam. He was implicated in that case with the aid of Section 27 of the Arms Act by merely alleging that he was found in possession of a sword. All the other offences in that case were bailable. The petitioner had approached this Court for anticipatory bail through B.A. No.3313/2013 and the same was allowed by this Court vide order dated 03.06.2013.

6. Presently, the petitioner has taken the task of bringing the *defacto complainant* also to this Court. The *defacto complainant* is represented by his counsel. The learned counsel for the *defacto complainant* also asserts

that the *defacto complainant* has no complaints against the petitioner. Evidently, it *prima facie* reveals that this is also probably a case of false implication of the petitioner. The learned counsel for the petitioner submits that the Sub Inspector of Police, Varkala has an axe to grind against the petitioner, as the petitioner had filed a private complaint against him before the Judicial First Class Magistrate's Court, Varkala, as C.M.P. No.6922/2012, a copy of which has been produced as Annexure-2. It seems that the petitioner was taken into custody by the Sub Inspector of Police, Varkala on 12.11.2012 alleging that the petitioner had ridden his motor bike without wearing helmet. After taking him to the police station, it is alleged that, he was brutally beaten up and kept inside the lock up for one night. It was when the parents, relatives and other members of the public went and complained to the Circle Inspector of Police, Varkala, the petitioner was released. It seems that the said police officer is behind the petitioner and he is being

implicated in false crimes. The matter has to be viewed seriously. As the said Sub Inspector of Police is not present before this Court, this Court is not making any further comments in the matter. Matters being so, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioner.

7. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioner, is directed to enlarge the petitioner on bail in the event of his arrest on his executing a bond for ₹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) The petitioner shall not tamper with the evidence or influence witnesses.

(ii) The petitioner shall make himself

available for interrogation as and when required by the investigating officer.

(iii) The petitioner 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.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/08/01

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PA to Judge