

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

Bail Appl..No. 9024 of 2014

**CRIME NO. 1642/2014 OF KALLAMBALAM POLICE STATION,
THIRUVANANTHAPURAM**

PETITIONER(S)/ACCUSED NO 1 & 2:

- 1. VINEETH, AGED 24 YEARS
S/O VIJAYAKUMAR, THIRUVATHIRA, MUTHANA P.O
CHEMMARUTHY, THIRUVANANTHAPURAM DISTRICT.**
- 2. VISHNU, AGED 22 YEARS
S/O VIJAAKUMAR, THIRUVATHIRA, MUTHANA P.O
CHEMMARUTHY, THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.C.R.SIVAKUMAR

RESPONDENT(S)/COMPLAINANT:

**THE STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KALLAMBALAM POLICE STATION, TRIVANDRUM DISTRICT,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09-01-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

B. KEMAL PASHA, J.

.....
B.A. No.9024 of 2014
.....

Dated this the 9th day of January, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioners are A1 and A2 in Crime No.1642/2014 of Kallambalam Police Station, Thiruvananthapuram district registered for the offences punishable under Sections 143, 147, 148, 341, 323, 324 and 326 read with Section 149 IPC.

3. The allegation against the petitioners and other accused is that, on 26.11.2014 at 7.30 p.m., they formed themselves into an unlawful assembly armed with deadly weapons, wrongfully restrained the autorickshaw by which the *defacto complainant* was coming, with a motor bike and assaulted the *defacto complainant* with iron pipe, thereby causing fracture of his nasal bone.

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

5. According to the learned counsel for the petitioners, the petitioners were attacked by the *defacto complainant* with a knife. Copy of the wound certificate is also produced, which shows that two superficial lacerated wounds have been sustained to the 1st accused. At the same time, the report of the investigating officer clearly reveals that earlier, A3 to A5 had involved in another case registered as Crime No.1283/2014 of Kallambalam Police Station for the offences under Sections 364A and 386 IPC. It is alleged that the *defacto complainant* herein was the complainant in the said case and it was because of that enmity, the present incident has occurred. The allegations against the petitioners are very grave and serious. Considering the seriousness of the allegations against the petitioners, I do not think that this is a fit case wherein anticipatory bail can be granted. It has been brought to the

notice of this Court that the marriage of the 1st accused is scheduled to be conducted on 31.01.2015. That does not weigh with this Court in granting anticipatory bail in a case like this. Of course, the court below may consider the said aspect while considering the application seeking regular bail, if any filed.

6. The learned counsel for the petitioners seeks for an opportunity 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

BA.9024/2014

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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/09/01

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PA to Judge