

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

Bail Appl..No. 9118 of 2014 ()

Crl.MC 1772/2014 of SESSIONS COURT,MANJERI
CRIME NO. 1344/2014 OF MALAPPURAM POLICE STATION , MALAPPURAM

PETITIONERS/ACCUSED 1 & 3:

1. ABU AGED 61 YEARS
SON OF ALAVI, PILAKKADI HOUSE, PADINHATTUMURI
MALAPPURAM DISTRICT, PIN: 676 506.
2. HAMZA, AGED 53 YEARS
SON OF ALAVI, PILAKKADI HOUSE, PADINHATTUMURI
MALAPPURAM DISTRICT, PIN: 676 506.

BY ADVS.SRI.ALAN PAPALI
SRI.GILBERT GEORGE CORREYA
SRI.NISHIL.P.S.
SRI.J.VIMAL

RESPONDENT/COMPLAINANT:

STATE OF KERALA
(CRIME NO.1344/2014-SUB INSPECTOR OF POLICE
MALAPPURAM POLICE STATION)
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.

PUBLIC PROSECUTOR, SRI.SREEJITH V.S.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
31-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.KEMAL PASHA, J.

B.A.No.9118 of 2014 D

Dated this the 31st day of March 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.1 and 3 in Crime No.1344/2014 of Malappuram Police Station registered for the offences punishable under Sections 143, 147, 148, 341, 323 and 326 read with Section 149 of the I.P. C.

3. The allegation against the petitioners and other accused is that on 30.11.2014 at 7.45 p.m., they formed themselves into an unlawful assembly armed with deadly weapons like kitchen knife, iron rod etc. and attacked the *defacto complainant*. It is alleged that the *defacto complainant* was beaten up with the iron rod and, thereby he sustained the fracture of his right fibula. He sustained

other injuries also.

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

5. It seems that a counter case has also been registered as Crime No.1345/2014 of the very same Police Station same for the offence under section 324 the I.P.C. The first accused and the *defacto complainant* are direct brothers and there a dispute between them with regard to a pathway in respect of their family property. The learned Sessions Judge has granted anticipatory bail to the other accused in the matter. On going through the facts and circumstances of the case, I do not see anything to discriminate the petitioners in the matter of granting of anticipatory bail. I do not think that the custodial interrogation of the petitioners is required for the continued investigation of this case. Considering the facts and circumstances of the case and the absence of criminal antecedents on the part of the petitioners, I am of the view that this

is a fit case wherein anticipatory bail can be granted to the petitioners.

6. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioners, is directed to enlarge the petitioners on bail in the event of their arrest on each of them 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 petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Tuesdays and Fridays, commencing from 7.4.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The petitioners shall not tamper with the evidence or influence witnesses.

(iii) The petitioners shall make themselves

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

(iv) The petitioners 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

dl

// TRUE COPY //

PA to Judge