

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. 9201 of 2014 ()

**CRIME NO. 484/2014 OF VENGARA POLICE STATION,
MALAPPURAM DISTRICT**

PETITIONERS/ACCUSED NOS.1-3:

- 1. ALAVI KOTTADAN, AGED 56 YEARS,
S/O.AHAMMED KUTTY, KOTTADAN HOUSE, KILINAKKODE,
PALLIKKAL BAZAR, CHERUR P.O., PIN: 676 314
THIRURANGADI TALUK, MALAPPURAM DISTRICT
VENGARA POLICE STATION LIMIT.**
- 2. ABIDALI.K., AGED 29 YEARS,
S/O.ALAVI KOTTADAN, KOTTADAN HOUSE, KILINAKKODE,
PALLIKKAL BAZAR, CHERUR P.O., PIN: 676 314
THIRURANGADI TALUK, MALAPPURAM DISTRICT
VENGARA POLICE STATION LIMIT.**
- 3. GULSAR.K. AGED 18 YEARS,
S/O.ALAVI KOTTADAN, KOTTADAN HOUSE, KILINAKKODE,
PALLIKKAL BAZAR, CHERUR P.O., PIN: 676 314
THIRURANGADI TALUK, MALAPPURAM DISTRICT
VENGARA POLICE STATION LIMIT.**

BY ADV. SRI.A.SHAFAEEK (KAYAMKULAM)

RESPONDENT :

**STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
VENGARA POLICE STATION, MALAPPURAM DIST
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM**

BY PUBLIC PROSECUTOR SMT. LALIZA T.Y.

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

bp

B.KEMAL PASHA, J.

B.A.No.9201 of 2014

Dated this the 8th day of January 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are the accused in Crime No.484/2014 of Vengara Police Station registered for the offences punishable under Sections 323, 326, 341, 427 and 506(i) read with Section 34 of the Indian Penal Code.

3. Petitioners 2 and 3 are the sons of the first petitioner. There were long standing property disputes between the petitioners on the one side and the de-facto complainant, who is none other than the elder brother of the first petitioner, on the other side.

4. It is alleged that on 25.11.2014 at 4.30 p.m., while the de-facto complainant was travelling by his jeep bearing Reg.No.KL

10 H/7898, the petitioners obstructed the jeep on the road, dragged down the de-facto complainant and attacked him. It is alleged that the second petitioner severely beat the de-facto complainant with a piece of firewood, and other petitioners slapped and stamped the de-facto complainant. In the attack the de-facto complainant suffered dislocation and fracture of the bones of his right big toe. It is also alleged that the petitioners smashed the jeep of the de-facto complainant, thereby causing a wrongful loss of ₹20,000/- to the de-facto complainant.

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

5. The contents of the C.D. *Prima facie* reveal the complicity of the petitioners. It is specifically alleged that it was the second accused/the second petitioner herein, who caused grievous hurt to the de-facto complainant. The allegation against petitioners 1 and 3 is that they have slapped and stamped the de-facto complainant. There is no allegation that they have made use of any weapon. The allegations against the second petitioner are

very grave and serious. Considering the seriousness of the allegations against the second petitioner, I am of the view that he is not entitled to the discretionary relief of anticipatory bail. At the same time, I am of the view that anticipatory bail can be granted to petitioners 1 and 3 on conditions, and also by making a provision for compensating the damage sustained to the jeep of the de-facto complainant.

6. In the result, this bail application is allowed in part and the investigating officer or such other police officer, who is conducting the arrest of the petitioners, is directed to enlarge the petitioners 1 and 3 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) Petitioners 1 and 3 shall deposit an amount of ₹20,000/- before the court below within a period of 15 days from today.

(ii) Petitioners 1 and 3 shall report before the

investigating officer in between 9 a.m. and 11 a.m. on all Thursdays and Mondays, commencing from 15.1.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(iii) Petitioners 1 and 3 shall not tamper with the evidence or influence witnesses.

(iv) Petitioners 1 and 3 shall make themselves available for interrogation as and when required by the investigating officer.

(v) Petitioners 1 and 3 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.

As far as the second petitioner is concerned, this Bail Application stands dismissed.

Sd/-
B.KEMAL PASHA,
JUDGE

dl

// TRUE COPY //

PA to Judge