

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 30TH SEPTEMBER 2008 / 8TH ASWINA 1930

Bail Appl.No. 5389 of 2008()

CRIME NO.276/2008 OF KOYIPURAM POLICE STATION

APPLICANT (S): 2ND ACCUSED:

MANOJ, S/O. THANKAPPAN, MADATHIL HOUSE,
NELLIMALA, THOTTAPUZHASSERI VILLAGE,
MALLAPPALLY TALUK.

BY ADV. SRIMVS.NAMBOOTHIRY
SRI.R.VINU RAJ

RESPONDENT(S): COMPLAINANT

STATE OF KERALA-REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30/09/2008, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K.HEMA, J.

B.A.No.5389 of 2008

Dated this the 30th day of September, 2008

O R D E R

This petition is for anticipatory bail.

2. The alleged offences are under Sections 448, 341 and 326 read with Section 34 IPC. According to prosecution, petitioner along with other accused, in furtherance of common intention, allegedly trespassed into the house of the defacto complainant and wrongfully restrained the defacto complainant and assaulted using iron rod etc. The first accused used the iron rod and the second accused twisted hand of the defacto complainant and the defacto complainant sustained fracture on the hand.

3. Learned counsel for the petitioner submitted that the petitioner is the second accused. The incident did not occur as alleged. There was a quarrel between the petitioner's paternal aunt and first accused on one side with the defacto complainant. His paternal aunt sustained injury and she also hospitalised, as evidenced by Annexure I. It is also submitted that Section 448

was later altered to Section 447 IPC.

4. This petition is opposed. Learned public prosecutor submitted that the petitioner is implicated as second accused and specific overt act is alleged against him. Fracture was sustained by the defacto complainant in the incident and it is not a fit case to grant anticipatory bail.

5. On hearing both sides, on considering the serious nature of allegations made, I do not find that this is a fit case to grant anticipatory bail. Annexure AI does not disclose any external injury on the petitioner's paternal aunt. On the other hand, the defacto complainant sustained a fracture on the hand.

The incident occurred as early as on 23.7.2008 and the petitioner could not be arrested for a period of two months.

Hence, petitioner is directed to surrender before the Magistrate Court concerned or the Investigating Officer and co-operate with the investigation within seven days from today.

With this direction, this petition is dismissed.

K.HEMA, JUDGE