

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. 6097 of 2008()

CMC.942/2008 of SESSIONS COURT,KOZHIKODE
CRIME NO.338/2008 OF KUNNAMANGALAM POLICE STATION
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PETITIONER/ACCUSED :

MOHANAN, S/O.VELU, PALAKOTHI PARAMBATH
HOUSE, CHERUKULATHOOR AMSOM, MUNDAKKAL DESOM,
KOZHIKODE TALUK.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS/COMPLAINANT & STATE :

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1. S.I.OF POLICE, KUNNAMANGALAM POLICE
STATION, KUNNAMANGALAM.
 2. 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.6097 OF 2008

Dated this the 30th day of September, 2008

O R D E R

This petition is for anticipatory bail.

2. The alleged offence is under Section 326 of I.P.C. According to the prosecution, the petitioner, in a drunken state, went to the defacto complainant's house and made some commotion in the house and he was sent away. Because of this enmity, while the defacto complainant was returning from a house after attending a function in connection with marriage, the petitioner went with an iron rod and beat the defacto complainant, and inflicted a fracture on his leg.

3. Learned counsel for the petitioner submitted that there is a case and a counter case. The petitioner was actually assaulted by the defacto complainant, while the petitioner and his wife were returning from the house. The defacto complainant called the petitioner on their way and there was a quarrel between them and the petitioner's wife also was assaulted, in the course of the incident. The defacto complainant fell down and

sustained the injury. In connection with this, a complaint was lodged by the petitioner's wife and a crime was registered under Sections 341, 323 and 354 of I.P.C., since the petitioner's wife was also assaulted by the defacto complainant.

4. This petition is opposed. Learned Public Prosecutor submitted that there is no case and counter case in this case. The incident in the counter case which is referred to by the petitioner's counsel, happened at 8 p.m. But the incident in this case happened on 9.30 p.m. on the same day. It is also revealed from the investigation that there was an earlier incident, as a relation to which, this incident occurred. Investigation is being conducted into of these crimes. The petitioner's presence is required for interrogation, especially for recovery of the weapon used. It is not correct to say that defacto complainant fell down and sustained the injury.

On hearing both sides, I do not think it fit to grant anticipatory bail, on considering the nature of investigation to be conducted and the serious allegations made in this case and also the fact that recovery is to be effected, for which purpose the

petitioner is required for interrogation.

Hence, the petitioner shall surrender before the Investigating Officer within two weeks from today and co-operate with the investigation.

With these directions, this petition is dismissed.

K.HEMA, JUDGE

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