

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ASHOK MENON

TUESDAY, THE 31ST DAY OF DECEMBER 2019 / 10TH POUSHA, 1941

Bail Appl..No.9364 OF 2019

AGAINST THE ORDER/JUDGMENT IN CRMC 2022/2019 DATED 16-12-2019 OF DISTRICT COURT & SESSIONS COURT, KOLLAM

CRIME NO.2236/2019 OF Kundara Police Station , Kollam

PETITIONERS/ACCUSED NOS 1, 2 AND 5:

- 1 SHYJU
AGED 37 YEARS
S/O.CLETUS, SHIBUBHAVANAM, CHERUMOODU,
VELLIMON, KOLLAM DISTRICT, PIN-691508.
- 2 RAJU,
AGED 50 YEARS
S/O.JOHN, OLIKKARAMELATHIL, CHERUMOODU,
VELLIMON, KOLLAM DISTRICT, PIN-691508.
- 3 KUTTAN @ ANILAL,
AGED 37 YEARS
S/O.ANSIL, AJITHABHAVAN, CHERUMOODU, VELLIMON,
KOLLAM DISTRICT, PIN-691508.

BY ADV. SRI.P.P.RAJESH

RESPONDENTS/STATE:

- 1 STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, KOCHI-31.
- 2 STATION HOUSE OFFICER,
KUNDARA POLICE STATION, KOLLAM DISTRICT-
691503.

SRI.T.R.RANJITH, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.12.2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 31st day of December, 2019

The petitioners are the accused Nos.1, 2 and 5 in Crime No.2236/2019 of Kundara Police Station, for having allegedly committed offences punishable under Sections 341, 323, 324, 506(1) and 326 read with Section 34 IPC along with another accused who is the third accused.

2. The allegation against the petitioners are that on 05.10.2019 at about 9.30 p.m the second accused wrongfully restrained the defacto complainant and his daughter while they were travelling in a motor cycle and the accused 1 to 4, in furtherance of their common intention, assaulted the defacto complainant with dangerous weapon like iron rod and the specific allegation is that the third accused fisted him on the left eye causing fracture to the bone below the left eye.

3. The third accused was already released on bail. The petitioners are allegedly absconding and not available for interrogation. Therefore the learned Sessions Judge was

reluctant in granting the pre-arrest bail. In view of the allegations, it is doubtful whether Section 326 could be attracted because the specific allegation is that the third accused had fisted the defacto complainant caused grievous injury with his hand. No grievous injury has been inflicted with iron rods by the petitioners, even going by the allegations of prosecution. The petitioners do not have any criminal antecedents. No custodial interrogation is found essential. Therefore, I find that this is a fit case for granting pre-arrest bail.

4. In the event of the petitioners being arrested, they shall be released on bail on execution of bond for Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each to the like amount to the satisfaction of the Investigating Officer and on condition that they shall appear before the Investigating Officer on every Monday between 9.00 a.m and 12.p.m for a period of three months after filing a final report whichever is earlier. They shall not intimidate or influence witnesses and shall co-operate with the investigation.

Breach of any of the above conditions would entail in the

Bail Appl..No.9364 OF 2019

prosecution applying for cancellation of the bail before the
Jurisdictional Magistrate.

Sd/-

ASHOK MENON

JUDGE

rpk