

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE K.HARIPAL

WEDNESDAY, THE 30TH DAY OF JUNE 2021 / 9TH ASHADHA, 1943

BAIL APPL. NO. 3003 OF 2021

CRIME NO. 378/2021 OF NAGAROOR POLICE STATION, THIRUVANANTHAPURAM

PETITIONERS/ACCUSED 1 AND 2:

- 1 MOHAMMED MIRZA
 AGED 27 YEARS
 S/O. MOHAMMED RAFI
 RESIDING AT B.V.HOUSE, NEAR VHSS,
 ALAMKODE P.O, ATTINGAL
 THIRUVANANTHAPURAM, PIN - 695102

- 2 RAMEEZ
 AGED 31 YEARS, S/O. MOHAMMED RAFI, RESIDING AT
 B.V.HOUSE, NEAR VHSS, ALAMKODE P.O, ATTINGAL
 THIRUVANANTHAPURAM, PIN - 695102

BY ADV J.R.PREM NAVAZ

RESPONDENT/STATE:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
ERNAKULAM,
PIN - 682031

BY SRI. SANTHOSH PETER, SENIOR PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.06.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Petitioners are the accused in Crime No. 378/2021 of Nagaroor Police Station, Thiruvananthapuram, which was registered alleging offence punishable under Sections 324, 294(b), 506, 308 read with 34 of the Indian Penal Code.

2. The petitioners are accused Nos. 1 and 2 in the crime and apprehending arrest, they have moved this application under Section 438 of the Code of Criminal Procedure.

3. The alleged incident had happened on 30.03.2021, at 10.30 P.M. According to the learned counsel for the petitioners, at the time of the alleged incident, the defacto complainant was in a drunken condition and had sustained injury on a fall and the petitioners have not caused any such injury to him. Moreover, the defacto complainant is a history sheeter, that no criminal antecedents is noticed against the petitioners.

4. On the other hand, the learned Public Prosecutor has opposed the application. According to him, the petitioners had assaulted and injured the defacto complainant using a beer bottle and jacky liver and caused him lacerated wounds on the forehead and also on the scalp.

5. After considering the contentions on both sides and also taking into account the nature of the offence and since it is alleged that the defacto complainant was hurt using dangerous weapons like bottle and jacky liver, which need to be recovered in the course of investigation, the petitioners cannot be released granting anticipatory bail.

6. At this juncture, the learned counsel submits that petitioners are prepared to surrender and co-operate with the investigation, that the offence under Section 308 of the IPC has been incorporated only to boost up the allegation. Whatever it may be, in the event of the petitioners surrendering before the Investigating Officer and if arrest is recorded, that shall be done with utmost expedition, preferably on the same day.

The bail application is disposed of as above.

Sd/-
K. HARIPAL
JUDGE

DCS/28.06.2021