

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 31ST DAY OF MAY 2023 / 10TH JYAISHTA, 1945

BAIL APPL. NO. 3103 OF 2023

CRIME NO.417/2023 OF KANNANALLOOR, KOLLAM

PETITIONER/ACCUSED NO.1:

ACHU R
AGED 23 YEARS
S/O RAJAN CHARUVILA VEED, PAZHANGALAM,
NALLILA P.O., KOLLAM DISTRICT., PIN - 691515

BY ADVS.
ALEXANDER GEORGE
SOUMYA FRANCIS

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031
- 2 THE STATION HOUSE OFFICER
KANNANELURE POLICE STATION,
KOLLAM DISTRICT., PIN - 691547
- 3 AMAL A S (DEFACTO COMPLAINANT)
AGED 20 YEARS
S/O ANIL KUMAR, EDAPANAYAM,
NEDUMPANA VILLAGE, KOLLAM DISTRICT,
KERALA,, PIN - 691576

BY SMT.T.V.NEEMA, SR.PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
31.05.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Dated this the 31st day of May, 2023

This is an application for anticipatory bail filed by the first accused in crime No.417/2023 of Kannannalloor police station, Kollam.

2. Heard the learned counsel for the petitioner as well as the learned Public Prosecutor. Perused the relevant documents form part of the case diary placed by the learned Public Prosecutor.

3. The prosecution case is that at about 20.45 hours on 02.04.2023, accused Nos.1 to 4, formed into an unlawful assembly, after sharing common intention and attacked the defacto complainant and caused hurt as well as grievous hurt to him. The specific allegation is that the first accused beat on the nose of the defacto complainant by using a hitting bangle and the same caused injuries, including nasal bone fracture. On the premise, the prosecution alleges commission of offences punishable under Sections 341, 323, 324 and 326 of IPC.

4. The learned counsel for the petitioner would submit that this is an occurrence arose out of sudden provocation in connection with the festival of a temple and there is no serious allegations. The learned counsel for the petitioner would further submit that the petitioner has no criminal antecedents. It is submitted that the petitioner's case may be considered with leniency so that he may be released on anticipatory bail and is ready to co-operate with the investigation.

5. Whereas it is submitted by the learned Public Prosecutor that in this case, overt acts against the first accused are specific. It is submitted further that there is specific allegation that the first accused used a hitting bangle to beat on the nose of the defacto complainant and the same caused comminuted fracture on the nasal bone. Therefore, the offence under Section 326 of IPC is well made out and in such a case, arrest, custodial interrogation and recovery of weapon are necessary to effectuate meaningful investigation.

6. On perusal of the First Information Statement, it has been stated with clarity that four persons attacked the defacto complainant and Achu/the first accused beat on the nose of the defacto complainant by using a hitting bangle and the same caused fracture. On perusal of the wound certificate, displaced comminuted bilateral nasal bone fracture along with injuries, viz., (1) nasal bleeding, (2) contusion 1x1 cm left occipital area, (3) abrasion left elbow and (4) nasal bone swelling, were noted. Thus, there is specific allegation against the petitioner in this case. Therefore, as rightly pointed out by the learned learned Public Prosecutor, arrest, custodial interrogation and recovery of weapon are necessary to effectuate meaningful investigation and successful prosecution. Therefore, the petitioner cannot be released on anticipatory bail since the same would defeat the investigation.

In the result, this bail application stands dismissed.

However, it is conceded by the learned counsel for the petitioner that the petitioner is ready to surrender before the

Investigating Officer and to aid the Investigating Officer in the matter of recovery of weapon. In view of the submission made by the learned counsel for the petitioner, the petitioner is directed to surrender before the Investigating Officer, within a period of ten days from today and to aid the investigation and recovery of weapon. On such surrender and recovery of weapon, the Investigating Officer is directed produce the petitioner before the jurisdictional court to move regular bail, in accordance with law.

**Sd/-
A. BADHARUDEEN
JUDGE**

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