

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 19<sup>TH</sup> DAY OF OCTOBER 2022 / 27TH ASWINA, 1944

BAIL APPL. NO. 7657 OF 2022

PETITIONERS/ACCUSED 1 & 2:

- 1 ABEESH  
S/O.ASOKAN  
AGED 33 YEARS  
KARANATH HOUSE,  
MATTATHUR VILLAGE, CHALAKUDY TALUK  
P.O PADY, THRISSUR. PIN - 680 699.  
, PIN - 680699
- 2 ASOKAN  
AGED 64 YEARS  
KARANATH HOUSE,  
MATTATHUR VILLAGE, CHALAKUDY TALUK  
P.O PADY, THRISSUR.  
, PIN - 680699  
BY ADVS.  
SANTHOSH PETER (MAMALAYIL)  
P.N.ANOOP  
AJAY V.ANAND  
M.S.SANDEEP SUDHAKARAN  
ROHIT LOBO

RESPONDENTS:

- 1 STATE OF KERALA  
THE STATE OF KERALA REPRESENTED BY  
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM.  
PIN - 682 035  
, PIN - 682035
- 2 ANNU ( SOUGHT TO BE IMPEADED )  
W/O. KOCHU LONAPPAN,  
THEKKILAKKADAN HOUSE, MATTATHUR VILLAGE,  
CHALAKKUDY TALUK, PADY P.O., ( SOUGHT TO BE IMPEADED )  
BY ADV DEVY

OTHER PRESENT:

PP SMT.M.K PUSHPALATHA

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
19.10.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**BECHU KURIAN THOMAS, J.**

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**B.A.NO. 7657 of 2022**  
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**Dated this the 19<sup>th</sup> day of October, 2022**

**ORDER**

This is an application for pre-arrest bail filed under Section 438 of the Code of Criminal Procedure, 1973.

2. Petitioners are accused Nos. 1 and 2 in Crime No.562 of 2022 of Vellikulangara Police Station, Thrissur District, alleging offences under Sections 447, 452, 324, 326 of the Indian Penal Code, 1860 apart from Section 66(E) of the Information Technology Act, 2000.

3. The prosecution case is that on 20-08-2022 at 4. pm the 1st accused trespassed into the house of the defacto complainant and assaulted the husband of the defacto complainant with a wooden stick and again on the early morning of 21-08-2022 at 12.30am, the 2nd accused trespassed into the house of the defacto complainant and assaulted the husband of the defacto complainant on the head

with an iron rod thereby causing a fracture in his scalp as well as on the leg and thereby committed the offences alleged.

4. Sri. Santhosh Peter, the learned counsel for the petitioners contended that the prosecution allegations are false and that incident as alleged had not occurred. It was also submitted that the 1<sup>st</sup> petitioner was not even present at the time of the incident and that he has been roped in as an accused only for ulterior purposes. The learned counsel for the petitioners submitted that there was a property dispute between the petitioners and the defacto complainant and therefore this crime has been alleged to bolster the said case. It was further pointed out that the mother of the 1<sup>st</sup> petitioner was brutally assaulted by the defacto complainant prior to the present incident for which FIR No.557/2022 is registered alleging offences under Sections 341, 324, and 325 of the IPC. The learned counsel also submitted that the petitioners are willing to abide by any conditions that may be imposed upon them.

5. Smt.Pushpalatha M.K., the learned Public Prosecutor opposed the grant of bail and contended that the allegations are serious requiring custodial interrogation.

6. The learned counsel for the defacto complainant submitted that the petitioners had brutally assaulted the defacto complainant's husband who had to suffer severe injuries including a fracture on the scalp as well as a fracture on the left knee which required several days of hospitalization.

7. I have perused the wound certificate as well as the statement of the defacto complainant.

8. The 1<sup>st</sup> petitioner is alleged to have hit on the leg of the defacto complainant with a wooden stick while the 2<sup>nd</sup> petitioner is alleged to have hit on the head of the defacto complainant's husband with an iron rod thereby inflicting serious injuries. Considering the nature of the allegations and the injuries inflicted, I am of the view that this is not a fit case where anticipatory bail can be granted.

9. However, if the petitioners surrender before the Investigating Officer within 10 days from today, they shall be subjected to interrogation, and thereafter, in the event of their arrest, they shall be produced before the jurisdictional Magistrate without further delay. In the event of any bail application being filed by the petitioners the same shall be

considered by the jurisdictional Magistrate in accordance with law, as expeditiously as possible.

This bail application is dismissed.

**BECHU KURIAN THOMAS  
JUDGE**

AJM  
19/10/2022

**APPENDIX OF BAIL APPL. 7657/2022**

PETITIONER ANNEXURES

|           |   |
|-----------|---|
| Annexure1 | TRUE COPY OF THE FIR IN CRIME NUMBER 562/2022 OF VELLIKULANGARA POLICE STATION.   |
| Annexure2 | DISCHARGE SUMMARY FROM NEW MEDICAL COLLEGE HOSPITAL, MUKAMKUNNATHUKAVU  |
| Annexure3 | FIR IN CRIME NUMBER 557/2022 OF VELLIKULANGARA POLICE STATION   |
| Annexure4 | TRUE COPY OF THE SCREENSHOT OF THE CASE STATUS OF CC NO. 846/2017 PENDING BEFORE THE JUDICIAL FIRST-CLASS MAGISTRATE, CHALAKUDY |
| Annexure5 | CERTIFIED COPY OF THE ORDER IN CRL. M.C NO. 1229/2022 DATED 24/09/2022.   |

//TRUE COPY//

PA TO JUDGE