

(2020) 12 KL CK 0222
In the High Court Of Kerala
Case No : Bail Application No. 6437 Of 2020

Praveen And Anr	Vs	APPELLANT
State Of Kerala And Anr		RESPONDENT

Date of Decision : 15-12-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 34, 323, 324, 326, 506

Citation : (2020) 12 KL CK 0222

Hon'ble Judges : Ashok Menon, J

Bench : Single Bench

Advocate : P. Mohamed Sabah, Saipooja, C.N. Prabhakaran

Final Decision : Allowed

Judgement

1. This is an application for anticipatory bail under Section 438 of Cr.P.C.
2. The applicants are son and father, who are accused 1 and 2 in Crime No.586/2020 of Thrithala Police Station for having allegedly committed the offences punishable under Sections 323, 324, 326 and 506 read with Section 34 of the I.P.C.
3. The prosecution case, in brief, is that owing to previous enmity between the 1st accused and the de facto complainant for the reason that the de facto complainant was engaged in spreading rumours about him, on 25.09.2020 at about 1.45 PM, the applicants in furtherance of common intention assaulted the de facto complainant. The 1st applicant, using an iron rod, hit the de facto complainant and caused a fracture of his right little finger. The 2nd accused allegedly assaulted him with hands.
4. The applicants state that the allegations are not true and that there was a scuffle in which the 1st applicant was also attacked by the de facto

complainant causing a fracture to his central right incisor. He also sustained other injuries. He was finding it difficult to urinate and was treated at

Taluk Hospital, Pattambi, as evidenced by Annexure-1 O.P.ticket. The applicants state that a counter-case has been registered against the de facto

complainant for having assaulted the applicants and prays that they may be granted anticipatory bail.

5. Heard the learned Counsel for the applicants and the learned Public Prosecutor.

6. The learned Public Prosecutor submits that the iron rod, which was allegedly used by the 1st applicant, is yet to be recovered, and therefore, he

may be subjected to custodial interrogation. It is further admitted that the applicants have no criminal antecedents. Grievous hurt was caused by the

1st applicant to the de facto complainant using an iron rod, which needs to be recovered.

7. In the result, the bail application is allowed in part and the applicants are directed to surrender before the investigating officer within two weeks. In

the event of their being arrested, after interrogation, the 2nd applicant shall be released on bail on the execution of a bond for Rs.50,000/- (Rupees fifty

thousand only), with two solvent sureties for the like amount each, to the satisfaction of the investigating officer, and on the following conditions:

(i) He shall not influence or intimidate witnesses or tamper with evidence;

(ii) He shall appear before the investigating officer as and when called for; and

(iii) During the bail period, he shall not get involved in any similar offences.

In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court.

8. The 1st applicant, after interrogation and recovery, shall be produced before the jurisdictional court, where he is at liberty to apply for regular bail,

which shall be considered and disposed of preferably on the very same day.