

**IN THE COURT OF SESSION, THALASSERY**

Present: Sri. G.Girish, Sessions Judge.

Saturday, the 22<sup>nd</sup> day of October, 2022/30<sup>th</sup> Aswina, 1944.

**Crl.M.C. No.1319/2022**

(Crime No.727/2022 of Cherupuzha Police Station)

Petitioners/Accused:-

1. Sajith.K.V, S/o.Appukutti, Aged 38 years, Kurukkan Valappil House, Vangad, Padiyotchal PO -670307.
2. Manoj @ Padmanabhan.K.V, S/o.Appukutti, Aged 41 years, -do-

Respondent/Complainant:-

State: SHO, Cherupuzha Police Station,  
Rep. by Public Prosecutor, Thalassery.

Petition under Section 438 Cr.P.C. for anticipatory bail.

This petition coming on this day for hearing before me in the presence of S/Sri. Vinod Kumar.P and Josna Naveen, Advocates for the petitioners and the Public Prosecutor for the State, the Court passed the following:-

**ORDER**

Accused No.2 and 3 have filed this petition u/s.438 Cr.P.C for pre-arrest bail.

2. The prosecution case is that on 02.10.2022 at about 2.00pm, the accused No.1 to 4 physically assaulted the cousin of the defacto complainant near Vangad Anganwadi in Vayakkara amsom, and when the defacto complainant tried to prevent the above assault, the accused wrongfully restrained him and physically assaulted him with a granite splinter, in addition to kicking and hitting with the hands. As a result of the above physical assault of the accused, the defacto complainant sustained fracture of his facial bone. Thus the accused are alleged to have committed the offence punishable u/ss.341, 323, 326 and 506(ii) r/w 34 IPC.

3. The case has been registered by the Cherupuzha Police on 03.10.2022 on the basis of the First Information Statement given by the defacto complainant.

4. In the present petition, the petitioners would contend that they are totally innocent and that they have been falsely implicated in this case.

5. Bail application is opposed by the learned Public Prosecutor.

6. The CD file would reveal that the defacto complainant was assaulted in a cruel and inhuman manner by the accused. The 2<sup>nd</sup> petitioner/ 3<sup>rd</sup> accused has used a granite splinter to hit the defacto complainant beneath his left eye, whereas the 1<sup>st</sup> petitioner/2<sup>nd</sup> accused is said to have kicked down the defacto complainant and trampled. As a result of the above assault the defacto complainant sustained fracture of his facial bone. It is not possible to brush aside the above crime committed by the accused as a trivial matter. The investigation in this case is only at the preliminary stage. Any protection by way of pre-arrest bail, if granted to the petitioners, would definitely hamper the investigation. There is every chance of the defacto complainant being subjected to further physical assault and criminal intimidation, if the accused are set at large. The custodial interrogation of the petitioners appears to be necessary for the successful completion of the investigation. In the above circumstances, the petitioners are not entitled for pre-arrest bail as prayed for in the petition.

In the result, the petition is hereby dismissed.

(Dictated to the Confidential Assistant transcribed and typed by him, corrected and pronounced by me in open Court, this the 22<sup>nd</sup> day of October, 2022).

Sd/-  
SESSIONS JUDGE

Copy to:-

1. The Judicial First Class Magistrate, Payyannur.
2. The SHO, Cherupuzha Police Station.
3. The Petitioners.

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