

**Daniel Vs. State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1021990](http://sooperkanoon.com/1021990)

**Court :** Kerala

**Decided On :** Aug-23-2013

**Judge :** Honourable Mr.Justice S.S.Satheesachandran

**Appellant :** Daniel

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.S.SATHEESACHANDRAN FRIDAY, THE 23RD DAY OF AUGUST 2013 1ST BHADRA, 1935 Bail Appl..No. 4997 of 2013 ()  
----- AGAINST THE ORDER IN CMP 2964/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, PATHANAMTHITTA CRIME NO. 94/2013 OF THANNITHODU POLICE STATION , PATHANAMTITTA DISTRICT  
===== PETITIONER/ACCUSED:  
----- DANIEL AGED 6 YEARS, S/O. KURIEN PATHROSE, CHOONDAL VEEDU ELIMULLUMPLACKAL P.O., KONNI, PATHANAMTHITTA DISTRICT. BY ADV. SRI.C.B.SREEKUMAR RESPONDENTS: -----  
1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA ERNAKULAM (CRIME NO. 94 /2013 OF THANNITHODE POLICE STATION PATHANAMTHITTA DISTRICT) 2. SUB INSPECTOR OF POLICE THANNTIHODE POLICE STATION PATHANAMTHITTA DISTRICT

645. R3 BY ADV. SRI.S.HARIKRISHNAN BY PUBLIC PROSECUTOR SMT. LALIZA T.Y. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23-08-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: SD S .S.SATHEESACHANDRAN, J ----- B.A.No.4997 of 2013 ----- Dated this the 23rd day of August, 2013 ORDER  
Petitioner is the accused in crime No. 94/2013 of Thannithode Police Station, Pathananthitta District, registered for the offence punishable under Section 31 of the Protection of Women from Domestic Violence Act, 2005, for short, 'the PWDV Act'. He has filed the above application seeking pre-arrest bail under Section 438 of the Code of Criminal Procedure, for short, 'the Code'.

2. Protection order was passed by the magistrate in favour of his wife, petitioner in a proceeding under by the PWDV Act, still he assaulted her and caused obstructions to her enjoyment of the shared household, is the allegation. Learned counsel for petitioner submits that he too suffered injury, in the occurrence alleged, but, the crime has been registered against him on false and baseless allegation. De-facto complainant, wife of petitioner got impleaded as an additional respondent in the present proceedings. Counsel appearing for the additional respondent submits that after registration of the present crime, another crime had also been registered against petitioner over the assault made on his son, B.A.No.4997/2013 2 which too occurred in the shared house. But the crimes are now pending investigation. Learned Public Prosecutor submits that on the facts and circumstances presented in the case, this is not a fit case where petitioner can be extended pre-arrest bail.

3. After hearing the submissions made and taking note of the facts and circumstances presented with reference to the materials produced as well, I find discretionary relief applied for cannot be extended to petitioner. Petition is dismissed. Sd/- S.S.SATHEESACHANDRAN JUDGE sd // True Copy // P.A. to Judge