

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE B.KEMAL PASHA**

**WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936**

**Bail Appl..No. 74 of 2015 ()**

**CRIME NO. 1507/2014 OF CHADAYAMANAGALAM POLICE STATION,KOLLAM DISTRICT**

**PETITIONER(S)/ACCUSED (RANK NUMBERS NOT KNOWN):**

1. RATHEESH, AGED 31 YEARS, S/O. RAVEENDRAN,  
RATHEESH BHAVAN, THERUVINBHAGAM,  
POREDAM, KOTTARAKKARA, KOLLAM DISTRICT.
2. VISHNU B.S @ UNNI, AGED 25 YEARS,  
S/O. BABU, THEKKEVILA VEEDU, POREDAM,  
KOTTARAKKARA, KOLLAM DISTRICT.
3. VISHNU B., AGED 17 YEARS,  
S/O. BABU PILLAI, THEKKEVILA VEEDU, POREDAM,  
KOTTARAKKARA, KOLLAM DISTRICT.
4. AJAYAKUMAR, AGED 30 YEARS,S/O. KRISHNAN ACHARY,  
AATTARUVILPUTHEN VEEDU, POREDAM,  
KOTTARAKKARA, KOLLAM DISTRICT.
5. DEEPU, AGED 22 YEARS,  
S/O. DEVARAJAN, USHABHAVAN, POREDAM,  
KOTTARAKKARA, KOLLAM DISTRICT.
6. CHANDRAPRESAD @ UNNI,AGED 22 YEARS,  
S/O. BALAN PILLAI, KOCHUPURAKKAL VEEDU,  
POREDAM,KOTTARAKKARA, KOLLAM DISTRICT.

**BY ADVS.SRI.C.RAJENDRAN  
SMT.R.S.SREEVIDYA**

**RESPONDENT/COMPLAINANT:**

**STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.**

**BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 04-02-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**sts**

**B.KEMAL PASHA, J.**

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B.A. No. 74 of 2015

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*Dated this the 4<sup>th</sup> day of February, 2015*

**ORDER**

Petition filed under Section 438 Cr.P.C.

2. Petitioners are A4, A5, A8, A2, A3 and A7 respectively in Crime No.1507 of 2014 of the Chadayamangalam Police Station, registered for the offences punishable under Sections 143, 144, 147, 148, 324, 427 and 307 read with Section 149 IPC and Section 27 of the Arms Act.

3. The allegation against the petitioners and the other accused is that on 24.10.2014, at 8.30 p.m., they formed themselves into an unlawful assembly, armed with deadly weapons like sword and iron rods, obstructed the auto-rickshaw being driven by the defacto complainant and dragged him out. It is alleged that A1 inflicted cuts on the defacto complainant with a sword and the other accused beat the defacto complainant with iron rods, stick and hands. They smashed the auto-rickshaw, thereby causing a wrongful loss

of Rs.2,000/- to the defacto complainant.

4. Heard learned counsel for the petitioners and learned Public Prosecutor. Perused the CD.

5. It has been reported that A1 and A6 have already been arrested. It is alleged that A1 made use of a sword and A4 and A8 beat the defacto complainant with iron rods. There is no allegation against petitioners 2 and 4 to 6 that they have made use of any weapon. At the same time, specific overt acts are alleged against petitioners 1 and 3. As far as petitioners 2 and 4 to 6 is concerned, I am of the view that their custodial interrogation is not required for the continued investigation of this case. At the same time, the custodial interrogation of petitioners 1 and 3 is required for the continued investigation of this case. Matters being so, I am of the view that petitioners 1 and 3 are not entitled to the discretionary relief of anticipatory bail. At the same time, in the absence of criminal antecedents on the part of petitioners 2 and 4 to 6, I am of the view that this is a fit case wherein

anticipatory bail can be granted to them.

In the result, this bail application is allowed in part and the investigating officer or such other police officer, who is conducting the arrest of petitioners 2 and 4 to 6, is directed to enlarge petitioners 2 and 4 to 6 on bail in the event of their arrest on each of them executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties for the like sum each to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) Petitioners 2 and 4 to 6 shall deposit an amount of Rs.500/- (Rupees five hundred only) each before the court below within ten days from today.

(ii) Petitioners 2 and 4 to 6 shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Wednesdays and Saturdays commencing from 11.02.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(iii) Petitioners 2 and 4 to 6 shall not tamper with the evidence or influence witnesses.

(iv) Petitioners 2 and 4 to 6 shall make themselves available for interrogation as and when required by the investigating officer.

(v) Petitioners 2 and 4 to 6 shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

This bail application, as far as petitioners 1 and 3 is concerned, is dismissed. At the same time, the learned counsel for the petitioners seeks for an opportunity to petitioners 1 and 3 to surrender before the investigating officer and to co-operate with the investigation. If so advised, petitioners 1 and 3 may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate petitioners 1 and 3, effect recovery if any, and conduct the investigation and produce petitioners 1 and 3 without delay before the concerned Judicial First Class Magistrate's Court, where petitioners 1 and 3 can move for bail. In such case, the learned Magistrate

shall pass appropriate orders, preferably on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

**Sd/-  
B. KEMAL PASHA  
JUDGE**

*DSV/4/2/15*

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P.A. To Judge