

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

Bail Appl..No. 114 of 2015 ()

CRIME NO. 1205/2014 OF PATTAMBI POLICE STATION , PALAKKAD DISTRICT

PETITIONER(S)/ACCUSED 1 TO 3:

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1. HAMZA, S/O.MOIDU, AGED 52 YEARS,
VALAPPIL HOUSE, CHERUKODE POST,
VALAPPUZHA, PALAKKAD DISTRICT.
 2. ALI, S/O.BAPPUTTY, AGED 52 YEARS,
VALLIYIL HOUSE, VALLAPUZHA POST,
VALLAPUZHA, PALAKKAD DISTRICT.
 3. UMMER FAROOK, S/O.HASSAN, AGED 28 YEARS,
PARANTHODAN HOUSE, PULAMANTHOLE POST,
PALAKKAD DISTRICT

BY ADV. SRI.T.PRASAD

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
PATTAMBI POLICE STATION, PALAKKAD DISTRICT
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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B. KEMAL PASHA, J.

.....
B.A. No.114 of 2015
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Dated this the 15th day of January, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioners are the accused in Crime No.1205/2014 of Pattambi Police Station registered for the offences punishable under Sections 143, 147, 148, 509, 452, 294(b) and 506(ii) read with Section 149 IPC.

3. The allegation against the petitioners is that on account of the dispute regarding the transaction in respect of an agreement for sale in between the parties, the petitioners along with the other accused on 03.12.2014 at 10.30 a.m. formed themselves into an unlawful assembly, armed with deadly weapons like iron pipe and sword stick, committed house trespass into the house of the *defacto complainant*, abused the inmates and intimidated them.

4. Heard the learned counsel for the petitioners and

the learned Public Prosecutor.

5. No criminal antecedents have been reported against the petitioners. The learned counsel for the petitioners has pointed out that there was an agreement for sale executed in between the *defacto complainant* and the 1<sup>st</sup> petitioner, whereby the *defacto complainant* had agreed to sell out his property to the 1<sup>st</sup> petitioner, and obtained an amount of ₹25,00,000/- as part of consideration. According to the learned counsel for the petitioners, it is in order to escape from the clutches of law, the *defacto complainant* has chosen to trap the petitioners in a false criminal case like this. Even though there is an allegation of house trespass, there is no allegation that any injury was caused to the *defacto complainant* or any of the inmates of the house. Considering the facts and circumstances of the case and especially when there is an agreement for sale as pointed out by the learned counsel for the petitioners, I am of the view that this is a fit case wherein anticipatory bail can be

granted to the petitioners.

6. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioners, is directed to enlarge the petitioners on bail in the event of their arrest on each of them executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

*(i) The petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Thursdays and Mondays, commencing from 22.01.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.*

*(ii) The petitioners shall not tamper with the evidence or influence witnesses.*

*(iii) The petitioners shall make themselves available for interrogation as and when required by*

*the investigating officer.*

*(iv) The petitioners 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.

Sd/-  
**(B.KEMAL PASHA, JUDGE)**

aks/15/01

*// True Copy //*

*PA to Judge*