

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

Bail Appl..No. 123 of 2015 ()

CRIME NO. 2456/2014 OF PARIPPALLY POLICE STATION,KOLLAM DISTRICT

PETITIONER(S)/ACCUSED NOS 3 TO 7:-

1. BAHULEYAN G., AGED 45 YEARS,
S/O.GANGADHARAN, BAIJU MANDIRAM, MANIYARAMUGAL,
VILAVOORKKONAM P.O., KALLUVATHUKKAL.
2. SREENI S., AGED 29 YEARS,
S/O.SOMAN, MANU BHAVAN, MANIYARAMUGAL,
VILAVOORKKONAM P.O., KALLUVATHUKKAL.
3. VINOD G., AGED 36 YEARS,
S/O.GOPLAN, DEEPUDIYALAYAM, MANIYARAMUGAL,
VILAVOORKKONAM P.O., KALLUVATHUKKAL.
4. K.MANI, AGED 50 YEARS,
S/O.KARUNAKARAN, MANI VILASAM, MANIYARAMUGAL,
VILAVOORKKONAM P.O., KALLUVATHUKKAL.
5. SUDEVAN S., AGED 54 YEARS,
S/O.SANKARAN, NEDUNGOTTU NIRAPPUVILA VEEDU,
MANIYARAMUGAL, VILAVOORKKONAM P.O., KALLUVATHUKKAL.

BY ADV. SRI.V.V.RAJA

RESPONDENT/COMPLAINANT:-

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 19-01-2015,ALONG WITH BA.NO.124 OF 2015, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:

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B. KEMAL PASHA, J.
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B.A. Nos. 123 & 124 of 2015
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Dated this the 19th day of January, 2015

ORDER

Petitions under Section 438 Cr.P.C.

2. Petitioners in BA No.123 of 2015 are A3 to A7 and the petitioner in BA No.124 of 2015 is A8 in Crime No.2456 of 2014 of Parippally police station, Kollam District, registered for the offences punishable under Sections 143, 147, 148, 294(b), 448, 427, 323, 324, 326, 308 and 354 r/w section 149 IPC and under Section 27 of the Arms Act.

3. The allegation against the petitioners is that they along with other accused formed themselves into an unlawful assembly armed with deadly weapons like iron rod, stick, sword etc. and committed trespass into the courtyard of the house of the defacto complainant at 8.30pm, on 22.01.2014, committed rioting, and rioting armed with deadly weapons. It is alleged that they have smashed and damaged the glasses of the window panes

at the front side of the house thereby causing a wrongful loss of ₹ 3,000/- to the defacto complainant. It is specifically alleged that A1 to A7 had attacked the defacto complainant with weapons and caused injuries including grievous hurts.

4. The 8th accused is a woman. The allegation against her is that she threw chilly powder on the defacto complainant and the sister of the defacto complainant. It is alleged that the other accused had outraged the modesty of the sister of the defacto complainant.

5. During the pendency of the bail application, the 4th petitioner in BA No.123 of 2015, who is the 6th accused has been arrested. Matters being so, he is not entitled to anticipatory bail.

6. Heard the learned counsel for the petitioners and the learned Public Prosecutor and perused the CD.

7. The contents of the CD, prima facie, reveal the complicity of the petitioners. The 8th accused, who is the

B.A. Nos. 123 & 124 of 2015

petitioner in BA No.123 of 2015 is a woman and she is the wife of the 2nd accused. It seems that, that is the reason why she has also been arraigned as an accused in the crime. The only overt act alleged against her is that she threw chilly power. There is no allegation that she has made use of any other weapon, or she she has caused any injury to the defacto complainant or his sister. At the same time, specific overt acts are alleged against A3 and A5 to A7, who are the petitioners in BA No.124 of 2015.

8. Considering the seriousness of the allegations against the petitioners in BA No.124 of 2015, I am of the view that they are not entitled to the discretion of anticipatory bail. At the same time, considering the fact that the 8th accused who is the petitioner in BA No.123 of 2015 is a woman and the lesser role allegedly played by her in the incident, I am of the view that anticipatory bail can be granted to the 8th accused.

9. In the result, BA No. 123 of 2015 is allowed.

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and the investigating officer or such other police officer, who is conducting the arrest of the petitioner, is directed to enlarge the petitioner on bail in the event of her arrest on her executing a bond for ₹ 25,000/- (Rupees twenty five 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) The petitioner shall report before the investigating officer in between 9.00 am and 11 am on all Mondays and Thursdays commencing from 26.01.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.
- (ii) The petitioner shall not tamper with the evidence or influence witnesses.
- (iii) The petitioner shall make himself available for interrogation as and when required by the investigating officer.
- (iv) The petitioner shall not involve in any offence while on bail.

It is made clear that the violation of any of the

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conditions stipulated above will result in the cancellation of bail.

10. BA No.134 of 2015 is dismissed. At the same time, if so advised, the petitioners may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioners, effect recovery if any, and conduct the investigation and produce the petitioners without delay before the concerned Judicial First Class Magistrate's Court, where the petitioners 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

das

// True copy //

PA to Judge