

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

Bail Appl..No. 149 of 2015

CRIME NO. 11/2015 OF PIRAVAM POLICE STATION , ERNAKULAM

PETITIONER(S)/ACCUSED NOS. 1 TO 5:

1. KUTTAN, AGED 76 YEARS
S/O.VIRUNNAN, PARAYIL, PAMBRA KARA
PULIKKAMALIL P.O, VIA.MULANTHURUTHY- 682 314.
2. RAJU, AGED 45 YEARS
S/O.KUTTAN, PARAYIL, PAMBRA KARA
PULIKKAMALIL P.O, VIA. MULANTHURUTHY, 682 314.
3. SUKU, AGED 47 YEARS
S/O.KUTTAN, PARAYIL PAMBRA KARA
PULIKKAMALIL P.O, VIA. MULANTHURUTHY 682 314.
4. M.A.VASU, AGED 60 YEARS
S/O.AYYAN, MADATHIL PARAMBIL, PAMBRA KARA
PULIKKAMALIL P.O., VIA. MULANTHURUTHY 682 314.
5. K.K.BHASKARAN, AGED 51 YEARS
S/O.THEVAN, KUZHIYODIYIL HOUSE
PAMBRA KARA, PULIKKAMALIL P.O.
VIA. MULANTHURUTHY 682 314.

BY ADV. SMT.AYSHA YOUSEFF

RESPONDENT(S)/STATE:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM 682 530.
2. SUB INSPECTOR OF POLICE
PIRAVOM POLICE STATION, ERNAKULAM DIST 686 664.

BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16-01-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

B.KEMAL PASHA, J.

B.A.No.149 of 2015

Dated this the 16th day of January 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.1, 3, 2, 4 and 5 respectively in Crime No.11/2015 of Piravom Police Station registered for the offences punishable under Sections 447 and 379 read with Section 34 of the Indian Penal Code.

3. The allegation against the petitioners is that on 3.1.2015 at 11.00 p.m., they trespassed into the property of the de-facto complainant and committed theft of 1000 numbers of laterite stones kept in the property.

4. Heard the learned senior counsel for the petitioners and the learned Public Prosecutor. Perused the C.D.

5. It seems that 840 numbers of laterite stones have been recovered. The learned senior counsel for the petitioners has pointed out that there was a long standing dispute with regard to a pathway, in between the predecessor-in-interest of the de-facto complainant, as well as the public, including the petitioners. It was with a view to denying the right of way, the property was transferred by the earlier title holder of the property, in favour of the de-facto complainant, who is none other than his driver. There are civil litigations between the parties and the litigations are pending. On going through the facts and circumstances of the case, it seems that the acts alleged against the petitioners suffer from impossibility and improbability. The 1st petitioner is 76 years old. I do not think that the custodial interrogation of the petitioners is required for the continued investigation of this case. Matters being so, 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 Rs.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 Fridays and Tuesdays, commencing from 23.01.2015 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

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// TRUE COPY //

PA to Judge

