

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

Bail Appl..No. 201 of 2015 ()

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CBCID CRIME NO. 81/CR/KLM/96
CRIME NO.84/1995 OF KILIKOLLOOR POLICE STATION.
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PETITIONER/ACCUSED NO.3:

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SHAJI, AGED 43 YEARS,
S/O.MANI, PATHMAVILASAM VEEDU, KANNIMEL CHERI,
KILIKOLLOOR VILLAGE, KOLLAM DISTRICT.**

BY ADV. SRI.A.MOHAMMED.

RESPONDENT/COMPLAINANT & STATE:

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

BY SR. PUBLIC PROSECUTOR SRI.C. RASHEED.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 05-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

B.KEMAL PASHA, J.

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B.A. No. 201 of 2015

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Dated this the 5th day of February, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is the 3rd accused in CBCID Crime No.81/CR/KLM/96 (Crime No.84 of 1995 of the Kilikolloor Police Station, Kollam District), registered for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code.

3. On 27.03.1995, at about 7.45 p.m., one Harison @ Haris, a known goonda of the locality, was found lying dead at a place called Munnamkutty within the Kilikolloor Police Station limit, Kollam District. On the basis of the statement furnished by the father of the deceased, Crime No.84 of 1995 of the Kilikolloor Police Station was registered for the offences under Section 302 read with Section 34 of the Indian Penal Code. The investigation did not yield any result. Consequently, the investigation was handed over to the CBCID. While so, on receiving an information that A1 and A2,

are the persons behind the crime, they were nabbed by the CBCID. According to the investigating officer, A1 to A3 were present in a Bar at the evening of 27.03.1995 and the deceased also came over there. It is alleged that the petitioner pointed out the deceased to A1 and A2. Thereafter, A1 and A2 chased the deceased by two motorbikes and hacked him to death.

4. Heard learned counsel for the petitioner and learned Public Prosecutor.

5. The learned counsel for the petitioner has pointed out that there was no reason for A3 to point out the deceased to A1 and A2 and that the deceased was known to A1 and A2 even much earlier. It seems that on prior occasions, the deceased had attacked the house of A1 as well as A2 and caused injuries to A1 and A2 and their relatives. In fact, no overt acts are alleged against the petitioner. The investigating officer has no case that the petitioner had participated in the incident which resulted in the death of the deceased. The

only allegation against the petitioner is that he had pointed out the deceased to A1 and A2. At the same time, there is no allegation that any conspiracy has hatched among the accused along with the petitioner. Considering the facts and circumstances of the case, I do not think that the custodial interrogation of the petitioner is required for the continued investigation of this case. There is absolutely nothing to be recovered from the petitioner. Considering all the above, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioner on conditions by enabling the investigating officer to interrogate the petitioner.

In the result, this bail application is allowed 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 his arrest on his executing a bond for Rs.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 09.00 a.m. and 11.00 a.m. on all Thursdays and Mondays commencing from 12.02.2015 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 surrender his passport before the court below.

(iv) The petitioner shall make himself available for interrogation as and when required by the investigating officer.

(v) The petitioner 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

DSV/5/2/15

// True Copy //

P.A. To Judge

