

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

Bail Appl.No. 246 of 2015

CRIME NO. 1157/2014 OF VADAKARA POLICE STATION, KOZHIKODE
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PETITIONER(S)/ACCUSED:

1. NIKHIL BABU, AGED 20 YEARS,
S/O BABU, PULIKKATTUMEETHAL HOUSE, AYANCHERY,
VADAKARA TALUK, KOZHIKODE DISTRICT.
2. JITHIN BABU, AGED 20 YEARS,
S/O.BABU, MADULLATHIL HOUSE, AYANCHERY,
VADAKARA TALUK, KOZHIKODE DISTRICT.
3. VICHIL LAL, AGED 18 YEARS,
S/O BABU, KAVANERI MEETHAL, AYANCHERY,
VADAKARA TALUK, KOZHIKODE DISTRICT.
4. NIDHIN, AGED 21 YEARS,
S/O.BALACHANDRAN, THATTAMTHARAMMEL HOUSE, AYANCHERY,
VADAKARA TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENT(S)/COMPLAINANT & STATE:

1. SUB INSPECTOR OF POLICE,
VADAKARA POLICE STATION, KOZHIKODE - 673 017.
2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.

BY PUBLIC PROSECUTOR SRI.SREEJITH V.S.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
10-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

B.KEMAL PASHA, J.

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B.A. No. 246 of 2015

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Dated this the 10th day of February, 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.1 to 4 in Crime No.1157/2014 of the Vadakara Police Station, registered for the offences punishable under Sections 143, 147, 148, 341, 323, 324, 326 and 308 read with Section 149 IPC.

3. The allegation against the petitioners and other accused is that on 04.12.2014, while the de facto complainant and his friend were riding on the motor bike of the de facto complainant at 6.30 p.m., the petitioners and the other accused formed themselves into an unlawful assembly, armed with deadly weapons like iron rods, and obstructed the motor bike being ridden by the de facto complainant. It is alleged that petitioners 3 and 4 beat the de facto complainant and his friend with iron rods, thereby causing serious

injuries. It is further alleged that the other petitioners slapped and beat the de facto complainant and his friend.

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

5. It seems that specific overt acts are alleged against petitioners 3 and 4. They have made use of iron rods for attacking the de facto complainant and his friend. The wound certificates clearly show that there is fracture of the right ulna of the de facto complainant, and that the friend of the de facto complainant sustained injuries. There is no allegation that the petitioners 1 and 2 have made use of any weapon. No criminal antecedents have been reported against the petitioners. Considering the facts and circumstances of the case, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioners 1 and 2. At the same time, considering the seriousness of the allegation against petitioners 3 and 4, and the fact that the weapons used by

them have not yet been recovered, I am of the view that they are not entitled to the discretionary relief of anticipatory bail.

6. 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 the petitioners, is directed to enlarge petitioners 1 and 2 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) Petitioners 1 and 2 shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Tuesdays and Fridays, commencing from 17.02.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) Petitioners 1 and 2 shall not tamper with the evidence or influence witnesses.

(iii) Petitioners 1 and 2 shall make themselves

available for interrogation as and when required by the investigating officer.

(iv) Petitioners 1 and 2 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.

7. This Bail Application, as far as petitioners 3 and 4 are concerned, stands dismissed. The learned counsel for the petitioners seeks for an opportunity to petitioners 3 and 4 to surrender before the investigating officer and to co-operate with the investigation.

If so advised, the petitioners 3 and 4 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

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//True copy//

P.Ato Judge