

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

Bail Appl..No. 300 of 2015 ()

CRIME NO. 1230/2014 OF PULIKKEEZHU POLICE STATION,PATHANAMTHITTA DISTRICT

PETITIONER/2ND ACCUSED:

**SUBASH K.BABY @ SUBASH POTHEEN, AGED 44 YEARS,
S/O K.P. BABY, PUTHUPALLIL HOUSE, KADAPRA.**

**BY SRI.S.SREEKUMAR,SENIOR ADVOCATE
ADV.SRI.P.K.SATHEES KUMAR**

RESPONDENT(S)/COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**
- 2. SUB INSPECTOR OF POLICE,
PULIKKEEZHU POLICE STATION, PIN-689 674**

BY PUBLIC PROSECUTOR SRI.C.RASHEED

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 21-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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B.KEMAL PASHA, J.

.....
B.A. No.300 OF 2015
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Dated this the 21st day of January, 2015

ORDER

Petition filed under Section 439 Cr.P.C.

2. Petitioner is the second accused in Crime No.1230/2014 of the Pulikeezhu Police Station, Pathanamthitta registered for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

3. It is alleged that on 17.12.2014, during night, while deceased Praveen, along with the petitioner were consuming liquor at the Royal Indraprastha A/C Bar at Mannar, the first accused who is a notorious criminal came over to the Bar, and entered in a wordy altercation with A1 the deceased. Thereafter, the deceased and the petitioner went away from the Bar. By chasing them on the way, the first accused obstructed the motorbike of the deceased and also the motorbike of the petitioner. In the mean time, as

arranged by the first accused, the third accused also reached the spot. The third accused caught hold of the deceased and the first accused indiscriminately inflicted serious stab injuries on the body of the deceased thereby intentionally causing his death. The allegations against the petitioner is that even though the third accused caught hold of the deceased and the first accused repeatedly stabbed on him, the petitioner has not intervened for the rescue of the deceased and that he has not extended timely medical aid to the deceased. The petitioner has been in custody for the period from 24.12.2014 onwards.

4. Heard the learned Senior Counsel for the petitioner and the learned Senior Public Prosecutor. Perused the CD.

5. The contents of the CD, *prima facie*, reveal the complicity of the other accused. The only allegation against the petitioner is that he had not intervened in the incident for the rescue of the deceased and that he had not extended

timely medical aid to the deceased. I do not find any sufficient materials to show that the petitioner had shared any common intention with the other accused so as to invite an offence under Section 302 IPC read with Section 34 IPC. It is true that the first accused is involved in ten other crimes of serious nature and he is a habitual offender. At the same time, no criminal antecedents have been reported against the petitioner. Continued detention of the petitioner in custody is not required for the continued investigation of this case. Having regard to the period undergone by the petitioner in custody, the present stage of investigation and the absence of any criminal antecedents on his part, I am of the view that the petitioner can be enlarged on bail.

6. In the result, this Bail Application is allowed and the petitioner shall be enlarged on bail on his executing a bond for ₹1,00,000/- (Rupees one lakh only) with two solvent sureties for the like sum each to the satisfaction of the concerned Judicial First Class Magistrate's Court, and

subject to the following terms and conditions:-

(i) Except for observing condition No.(ii) below, the petitioner shall not enter the local limits of the Pathanamthitta District for a period of six months from today.

(ii) The petitioner shall report before the Investigating Officer in between 9 a.m. and 11 a.m. on all Wednesdays and Saturdays commencing from 28.01.2015 for a period of six months.

(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 conditions stipulated above will result in the cancellation of bail.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

B.A.No. 300 of 2015

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[True copy]

P.S. to Judge