

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

Bail Appl..No. 320 of 2015 ()

CRIME NO. 677/2014 OF AREACODE POLICE STATION ,MALAPPURAM DISTRICT

PETITIONER(S)/ACCUSED NOS.1,3,4 & 5:

- 1. RASIK, S/O. ABDULLA, AGED 30 YEARS,
NALAKATH KALARIKKAL HOUSE,
THAZHATHANGADI, AREACODE, MALAPPURAM DISTRICT.**
- 2. IQUBAL, S/O. HUSSAIN, AGED 28 YEARS,
MADATHINGAL HOUSE, THAZHATHANGADI,
AREACODE, MALAPPURAM DISTRICT.**
- 3. AJWAD,S/O. ABOOBACKER, AGED 26 YEARS,
VALIYAPEEDIYEKKAL HOUSE, THAZHATHANGADI,
AREACODE, MALAPPURAM DISTRICT.**
- 4. MUHAMMED FASIL,S/O. ASHARAF,AGED 29 YEARS,
KADOORAN HOUSE, THAZHATHANGADI,
AREACODE, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SRI.K.RAKESH**

RESPONDENT(S)/STATE & COMPLAINANT:

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
KOCHI-682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
AREACODE POLICE STATION,
MALAPPURAM DISTRICT-673 639.**

BY PUBLIC PROSECUTOR SRI.ABDUL RASHEED

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

B.KEMAL PASHA, J.

B.A.No.320 of 2015

Dated this the 4th day of March 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are A1 and A3 to A5 in crime No.677/2014 of Areacode Police station registered for the offences punishable under sections 143, 147, 148, 341, 324 and 308 read with section 149 of the I.P.C.

3. The allegation against the petitioners and the other accused is that on 21.12.2014 at 8.30 p.m., they formed themselves into an unlawful assembly armed with deadly weapons like knives, attacked the de-facto complainant and others, who had gathered for

a public meeting by a political party. It is alleged that the de-facto complainant and others were stamped by A1 and A2 with knives. The allegations against the other accused is that they have slapped, fisted and kicked the de-facto complainant and others.

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

5. The learned counsel for the petitioners has pointed out that the main overt act alleged is against A2 and he has been arrested, detained and subsequently, enlarged on bail. It seems that A1 and A2 are on the same footing, and it is alleged that the A1 has also made use of a knife and stabbed the de facto complainant and others. Considering the seriousness of the allegations against the 1st petitioner, he is not entitled to the discretionary relief of anticipatory bail. At the same time, on going through the contents of the C.D., no specific overt acts are alleged against petitioners 2 to 4 herein. In the absence of criminal antecedents on part of

petitioners 2 to 4, and in the nature of the allegations against them, I am of the view that anticipatory bail can be granted to them. Considering the fact that the first petitioner has no criminal antecedents on his part, I am of the view that the first petitioner can be given an opportunity to surrender before the investigating officer and to co-operate with the investigation.

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 2 to 4, is directed to enlarge these petitioners on bail in the event of their arrest on each of them executing a bond for ₹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) These petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Wednesdays and Saturdays, commencing from

11.3.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) These petitioners shall not tamper with the evidence or influence witnesses.

(iii) These petitioners shall make themselves available for interrogation as and when required by the investigating officer.

(iv) These 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.

This petition, so far as it relates to the 1st petitioner, stands dismissed. At the same time, if so advised, the first petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the first petitioner, effect recovery if any, and conduct the investigation and produce the first petitioner without delay before the concerned Judicial First Class Magistrate's Court, where the petitioner 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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PA to Judge