

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.KEMAL PASHA

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

Bail Appl..No.423 of 2015

(CRIME NO.31/2015 OF PUTHOOR POLICE STATION,KOLLAM).

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PETITIONERS/ACCUSED A1 TO 6 & 8 TO 18:

1. **NELSON @ SANAL,AGED 42 YEARS,S/O.GEORGE,
SANU SADANAM,THEKKUMPURAM MURI,
PUTHOOR VILLAGE,KOTTARAKKARA TALUK,KOLLAM DISTRICT.**
2. **BABU,AGED 40 YEARS,S/O.THANKAPPAN,
VATTVILA PADINJATTATHIL VEEDU,
THEKKUMPURAM MURI,PUTHOOR VILLAGE,
KOTTARAKKARA THALUK,KOLLAM DISTRICT.**
3. **LIJU,AGED 30 YEARS,S/O.VILSON,CHARUVILA VEEDU,
VENGOOR MURI,ELAMADU VILLAGE,
KOTTARAKKARA THALUK,KOLLAM DISTRICT.**
4. **MANEESH,GED 26 YEARS,S/O.MANI,
MANEESH BHAVANAM,THEKKUMPURAM MURI,
PUTHOOR VILLAGE,KOTTARAKKARA THALUK,
KOLLAM DISTRICT.**
5. **SUJA,AGED 38 YEARS,D/O.VIJAYAMMA,SANU SADANAM,
THEKKUMPURAM MURI,PUTHOOR VILLAGE,
KOTTARAKKARA THALUK,KOLLAM DISTRICT.**
6. **MANI,AGED 50 YEARS,S/O.DAMODARAN,
MANEESH BHAVANAM,THEKKUMPURAM MURI,
PUTHOOR VILLAGE,KOTTARAKKARA THALUK,
KOLLAM DISTRICT.**
7. **AKHIL,AGED 24 YEARS,S/O.MOHANAN,VALLIVILA VEEDU,
THEKKUMPURAM MURI,PUTHOOR VILLAGE,
KOTTARAKKARA THALUK,KOLLAM DISTRICT.**
8. **FRANCIS,AGED 44 YEARS,S/O.YOHANNAN,
ADIYARAKKATHIL VEEDU,THEKKUMPURAM MURI,
PUTHOOR VILLAGE,KOTTARAKKARA THALUK,KOLLAM DISTRICT.**
9. **SWARAJ,AGED 23 YEARS,S/O.SOMAN,SWARAJ BHAVANAM,
THEKKUMPURAM MURI,PUTHOOR VILLAGE,
KOTTARAKKARA THALUK,KOLLAM DISTRICT.**
10. **LEELA,AGED 50 YEARS,D/O.PODIPPENNU,
MANEESH BHAVANAM,THEKKUMPURAM MURI,
PUTHOOR VILLAGE,KOTTARAKKARA THALUK,KOLLAM DISTRICT.**

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11. SREEJA,AGED 35 YEARS,D/O.VIJAYAMMA,
VTTAVILA PUTHEN VEEDU,THEKKUMPURAM MURI,
PUTHOOR VILLAGE,KOTTARAKKARA THALUK,
KOLLAM DISTRICT.
12. VIJAYAMMA,AGED 64 YEARS,D/O.MADHAVIKKUTTY,
NO - 6,MUZHICKODU LAKSHAMVEEDU,
PUTHOOR VILLAGE,KOTTARAKKARA THALUK,KOLLAM DISTRICT.
13. VASANTHA,AGED 48 YEARS,D/O.PODIPPENNU,
SWARAJ BHAVANAM,THEKKUMPURAM MURI,
PUTHOOR VILLAGE,KOTTARAKKARA THALUK,
KOLLAM DISTRICT.
14. GRACY,AGED 50 YEARS,D/O.KUTTY,KAVINTEMELATHIL VEEDU,
THEKKUMPURAM MURI,PUTHOOR VILLAGE,
KOTTARAKKARA THALUK,KOLLAM DISTRICT.
15. KUNJAMMA,AGED 64 YEARS,D/O.ACHARU,
VATTVILA,PADINJATTATHIL VEEDU,
THEKKUMPURAM MURI,PUTHOOR VILLAGE,
KOTTARAKKARA THALUK,KOLLAM DISTRICT.
16. KUNJUMON,AGED 58 YEARS,S/O.JOSEPH,
SANTHOSH BHAVANAM,THEKKUMPURAM MURI,
PUTHOOR VILLAGE,KOTTARAKKARA TALUK,
KOLLAM DISTRICT.
17. ACHANKUNJU @ RAJAN,AGED 52 YEARS
S/O.GEORGE,NEDIYALAKIZHAKATHIL VEEDU,
THEKKUMPURAM MURI,PUTHOOR VILLAGE,
KOTTARAKKARA THALUK,KOLLAM DISTRICT.

BY ADV. SRI.K.V.ANIL KUMAR

RESPONDENTS:

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

***ADDITIONAL 2ND RESPONDENT IMPEADED**

ADDL.R2:INDIRA,D/O.THANKAMMA,ONNUKALLIL PUTHEN VEEDU,
THEKKUMPURAM MURI,PUTHOOR VILLAGE,PUTHOOR,
KOTTARAKKARA,KOLLAM.

*ADDITIONAL R2 IS IMPEADED AS PER ORDER DATED 2.3.2015 IN
CM.APPL.NO.1611/2015 IN B.A.NO.423/2014

R1 BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.
ADDL.R2 BY ADV.SRI.B.MOHANLAL

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 02-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B.KEMAL PASHA, J.

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B.A. No.423 of 2015

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Dated this the 2nd day of March, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are A1 to A6 and A8 to A18 in Crime No.31 of 2015 of the Puthoor Police Station, Kollam District, registered for the offences punishable under Sections 143, 147, 148, 341, 323, 324, 326, 308, 427 and 294(b) read with Section 149 of the Indian Penal Code.

3. On account of a pending dispute between the injured persons in this case and the accused, they were called to the Police Station by the Sub Inspector of Police to have a discussion in order to settle the matter. While the injured persons in this case were proceeding to the Police Station at 02.30 p.m. on 03.01.2015, the petitioners along with other accused formed themselves into an unlawful assembly armed

with deadly weapons like swords and wrongfully restrained them and attacked them. It is alleged that some of the injured persons were tied down to pillars and they were severely attacked with swords and other weapons, thereby they sustained injuries including grievous hurt. It seems that altogether five persons have sustained serious injuries.

4. Heard learned counsel for the petitioners, learned counsel for the defacto complainant and the learned Public Prosecutor.

5. The learned counsel for the petitioners has pointed out that the petitioners were also attacked by the defacto complainant and the other injured persons, for which a counter case was registered as Crime No.32 of 2015 for the offences under Sections 294(b), 447, 341 and 324 read with Section 34 of the Indian Penal Code. The contents of the CD *prima facie* reveal the complicity of the petitioners. At the same time, it seems that the petitioners 5 and 10 to 15 are women, against whom, specific overt acts have not been alleged. No criminal antecedents have been reported against the said persons. Considering the said fact, I am of the view

that petitioners 5 and 10 to 15 can be granted anticipatory bail. At the same time, considering the seriousness of the allegations against the other petitioners, 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 petitioners 5 and 10 to 15, is directed to enlarge petitioners 5 and 10 to 15 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 for the like sum each to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) Petitioners 5 and 10 to 15 shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Mondays and Thursdays commencing from 09.03.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) Petitioners 5 and 10 to 15 shall not tamper with the evidence or influence witnesses.

(iii) Petitioners 5 and 10 to 15 shall make themselves available for interrogation as and when required by the investigating officer.

(iv) Petitioners 5 and 10 to 15 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. At the same time, while dismissing anticipatory bail to the other petitioners, I am of the view that they can be given an opportunity to surrender before the investigating officer in order to co-operate with the investigation as no criminal antecedents have been reported against them.

8. This bail application as far as petitioners 1 to 4, 6 to 9, 16 and 17 are concerned, is dismissed. At the same time, if so advised, petitioners 1 to 4, 6 to 9, 16 and 17 may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate petitioners 1 to 4, 6 to 9, 16 and 17, effect recovery if any, and

conduct the investigation and produce petitioners 1 to 4, 6 to 9, 16 and 17 without delay before the court below, where petitioners 1 to 4, 6 to 9, 16 and 17 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

DSV/2/3/15

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P.A. To Judge