

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

Bail Appl..No. 455 of 2015 ()

CRIME NO. 1048/2014 OF KASARAGOD POLICE STATION, KASARGOD DISTRICT

PETITIONER(S)/ACCUSED NOS.5 AND 9:

1. **SACHIN K @ SACHU, AGED 22 YEARS,
S/O.SURESH NAIK, POOKKARA HOUSE, KORUVAYAL,
ERIYAL, KUDLU VILLAGE, HONDA SHOWROOM,
ADUKKATHUBAYAL, KASARAGOD DISTRICT.**
2. **UDAYAN @ BATTI UDAYAN, AGED 31 YEARS,
S/O.GANGADHARAN (LATE), NEERALA HOUSE,
NEAR PULIKKUR COMMUNITY HALL, SHIRIGABILU,
SHIRIGABILU VILLAGE, KASARAGOD DISTRICT.**

BY ADV. SRI.A.ARUNKUMAR

RESPONDENT(S)/COMPLAINANT & STATE:

1. **STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
2. **THE STATION HOUSE OFFICER,
(CRIME NO.1048/2014 OF KASARAGOD POLICE STATION),
KASARAGOD DISTRICT - 670 001.**

BY PUBLIC PROSECUTOR SRI.C.RASHEED

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 27-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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B.KEMAL PASHA, J.

.....
B.A. No.455 of 2015
.....

Dated this the 27th day of January, 2015

ORDER

Petition filed under Section 439 Cr.P.C.

2. Petitioners are A13 and A2 respectively in Crime No.1048/2014 of the Kasaragod Police Station registered for the offences punishable under Sections 143, 147, 148, 341, 449, 120B, 153A and 302 read with Section 149 of the Indian Penal Code.

3. The allegation against the petitioners and the other accused is that on 11.12.2014, in retaliation of Crime No.89/2013 of the Kasaragod Police Station, the petitioners along with the other accused hatched a criminal conspiracy to do away with deceased Zainul Aabid, and they formed themselves into an unlawful assembly armed with deadly

weapons. It is alleged that in pursuance of the conspiracy A6, A7, A9 and A10 identified the presence of deceased at a shop which is the scene of occurrence in the case. They gave information of the said fact to A1 to A5, and in turn A1 to A5 came to the spot by two motorbikes at 9.30 p.m. on 22.12.2014. They trespassed into the veranda of the shop and inflicted very serious injuries on Abid. Abid died on the way to hospital. The first petitioner was arrested on 07.01.2015 and the second petitioner was arrested on 13.12.2014 and thereafter they have been in custody.

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

5. The only allegation against the first petitioner who is the 13th accused is that he is a party to the criminal conspiracy hatched among the accused to do away with the deceased. Apart from that he had allegedly participated in the criminal conspiracy, there is no allegation that he has not participated in the incident in which the death of the

deceased was caused or he has made use of any weapons. At the same time, there are specific allegations against the second petitioner. It has been reported that the second petitioner herein is an accused in Crime No.709/2008 of the Kasaragod Police Station registered for the offences punishable under Sections 341, 323 & 302 r/w Section 34 IPC, Crime No.839/2009 of the Kasaragod Police Station registered for the offences punishable under Sections 143, 147, 148, 341, 324, 427 & 153A r/w Section 149 IPC and Crime No.847/2009 of the said Police Station registered for the offences punishable under Sections 143, 147, 148, 341, 323, 326, 308 & 153A r/w Section 149 IPC. Considering the serious criminal back ground of the second petitioner, I am of the view that he is not entitled to be enlarged on bail. Considering the fact that no criminal antecedents have been reported against the first petitioner and also considering the facts and circumstances of the case, I am of the view that the first petitioner can be enlarged on bail.

6. In the result, this bail application is allowed in part and the first 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) The first petitioner shall report before the Investigating Officer in between 9 a.m. and 11 a.m. on all Tuesdays and Fridays commencing from 03.02.2015 for a period of six months.

(ii) Except for observing condition No.(i) above, the first petitioner shall not enter the Kasaragod District for a period of six months from today.

(iii) The first petitioner shall not tamper with the evidence or influence witnesses.

(iv) The first petitioner shall make himself available for interrogation as and when required by the Investigating Officer.

(v) The first 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.

This petition, as far as the 2nd petitioner is concerned, is dismissed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge