

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

Bail Appl..No. 510 of 2015

CRIME NO. 10/2015 OF ALATHUR POLICE STATION, PALAKKAD DISTRICT.
.....

APPLICANTS/ACCUSED NOS.1 TO 3 AND 5:

1. ARJUN, AGED 23 YEARS,
S/O.GOPALAN, KONNALLUR,
CHITTILAMCHERRY, ALATHUR, PALAKKAD.
2. VISHNU, AGED 23 YEARS,
S/O GOPALAN, KONNALLUR,
CHITTILAMCHERRY, ALATHUR, PALAKKAD.
3. MANIKANDAN, AGED 27 YEARS,
S/O.KUPPAN, KALLAMPARAMBU HOUSE,
CHITTILAMCHERRY, ALATHUR, PALAKKAD.
4. AJAY, AGED 20 YEARS,
S/O.MADHAVAN, CHITTILAMCHERRY,
ALATHUR, PALAKKAD.

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

BY PUBLIC PROSECUTOR SRI.V.S.RANJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

B.KEMAL PASHA, J.

.....
B.A. No.510 OF 2015
.....

Dated this the 30th day of January, 2015

ORDER

Application filed under Section 438 of the Code of Criminal Procedure.

2. Petitioners are A1 to A3 and A5 in Crime No.10 of 2015 of the Alathur Police Station, Palakkad registered for the offences punishable under Sections 143, 147, 148, 341, 323, 324 and 308 IPC.

3. The allegation against the petitioners is that on 01.01.2015 at 12.30 p.m., they formed themselves into an unlawful assembly armed with deadly weapons like beer bottle, iron rod etc. and committed rioting and rioting armed

with deadly weapons. It is alleged that the first accused beat on the head of the defacto complainant with the beer bottle thereby causing very serious injuries to him. The bottle was broken and thereafter by using an iron rod, he beat the defacto complainant and three others who were there along with the defacto complainant, thereby causing injuries to all of them.

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

5. It seems that all the main overt acts are alleged against A1 who is the 1st petitioner herein. As far as the other petitioners are concerned, no specific overt acts are alleged against them. It seems that the quarrel has arisen imminently and there was no pre-meditation at all. Considering the seriousness of the allegations and also the seriousness of the injuries sustained to the defacto complainant and the other three persons, I am of the view that the first petitioner is not entitled to the discretionary

relief of anticipatory bail. At the same time, anticipatory bail can be granted to other petitioners, especially when no criminal antecedents have been reported against them.

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 2, 3 and 4, is directed to enlarge the 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) Petitioners 2, 3 and 4 shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Fridays and Tuesdays commencing from 06.02.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) Petitioners 2, 3 and 4 shall not tamper with the evidence or influence witnesses.

(iii) Petitioners 2, 3 and 4 shall make

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

(iv) Petitioners 2, 3 and 4 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 the 1st petitioner is concerned, is dismissed. At the same time, the learned counsel for the 1st petitioner seeks for an opportunity to the 1st petitioner to surrender before the investigating officer and to co-operate with the investigation. If so advised, the 1st petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the 1st petitioner, effect recovery if any, and conduct the investigation and produce the 1st petitioner without delay before the court below, where the 1st 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

ul/-

[True copy]

P.S. to Judge