

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

Bail Appl..No. 765 of 2015 ()

(CRIME NO.49/2015 OF VAGAMON POLICE STATION, IDUKKI DISTRICT)

PETITIONERS/ACCUSED:

1. NADARAJAN, AGED 65 YEARS
SIVODAYAM VEEDU, VETTIKUZHYBHAGOM, KOLAHALAMEDU
VAGAMON P.O., IDUKKI (DT)
2. PRADEEP, AGED 40 YEARS
S/O.NADARAJAN, SIVODAYAM VEEDU, VETTIKUZHYBHAGOM
KOLAHALAMEDU, VAGAMON P.O., IDUKKI (DT)
3. SREEDEVI
W/O.PRADEEP, SIVODAYAM VEEDU, VETTIKUZHYBHAGOM
KOLAHALAMEDU, VAGAMON P.O., IDUKKI (DT)

BY ADV. SRI.S.SACHITHANANDA PAI

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA

R BY PUBLIC PROSECUTOR, SMT.LALIZA T.Y.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
19-02-2015 ALONG WITH B.A.864/2015, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:

B.KEMAL PASHA, J.

B.A. Nos.765 and 864 of 2015

Dated this the 19th day of February 2015

ORDER

B.A. No.864 of 2015 is filed by the accused in crime No.41/2015 of Vagamon police station registered for the offences punishable under Sections 188 of I.P.C. read with Section 34 of the I.P. C. and Section 7(a) of the Kerala Land Conservancy Act read with 7(a) of the Kerala Land Conservancy (Amendment) Bill 2007 and B.A. No.765/2015 is filed by the accused in crime No.49/2015 of the said police station for the offences punishable under Sections 353 and 332 read with Section 34 of the I.P. C.

2. The learned Public Prosecutor has pointed out that, out of the 3 petitioners in B.A. No.864/2015, the first petitioner is the only accused at present, and the others are not the accused in the crime.

3. The allegations in Crime No.41/2015 is that the first petitioner has trespassed into the properties of the Kerala Livestock department and he started constructions in the property. Through notice No.8/15 dated 24.1.2015, a stop memo was issued to him for stopping the construction. Even then, disregarding the said stop memo, he continued the construction.

4. The allegations in crime No.49/2015 is that, the petitioners had forcefully obstructed the discharge of official duties of the de-facto complainant Additional Tahsildar of Peermade Taluk and deterred him and his staff from their official duties, when they went to the spot for evicting the petitioners from the government property on which they have encroached upon and carried out illegal constructions. It is alleged that the property of the Kerala Livestock department was trespassed into by the petitioners and they have made illegal constructions in the property violating the lawful orders issued by the authorities. Consequently, on 30.1.2015

at 11.30 a.m., the de-facto complainant and the other officers of the Government went to the property for evicting them from the property and at that time, the third petitioner by threatening that she would commit suicide, inflicted a wound herself on her wrist with a weapon and stabbed a woman police constable, who was present along with those officers, thereby causing an injury. The officers were physically obstructed from the duty of evicting the petitioners.

5. The contents of the C.D. in both the cases, *Prima facie* reveal the complicity of the petitioners. The allegations against the petitioners are very grave and serious. Considering the seriousness of allegations against the petitioners, I am of the view that they are not entitled to the discretionary relief of anticipatory bail. At the same time, no criminal antecedents have been reported against the petitioners. Therefore, I am of the view that an opportunity can be granted to the first petitioner in B.A. No.864/2015 and the

petitioners in B.A. No.765/2015 to surrender before the investigating officer and to co-operate with the investigation.

6. In the result, this bail application is dismissed. At the same time, if so advised, the first petitioner in B.A. No.864/2015 and the petitioners in B.A. No.765/2015 may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate these petitioners, effect recovery if any, and conduct the investigation and produce these petitioners without delay before the concerned Judicial First Class Magistrate's Court, where these petitioners 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