

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

Bail Appl..No. 841 of 2015

CRIME NO.1048 OF 2014 OF KASARAGOD POLICE STATION, KASARAGOD

PETITIONER(S)/ACCUSED NOS.1 TO 4, 6 AND 7:

1. AJAY KUMAR SHETTY @ THEJAS @ THEJU, AGED 18 YEARS
S/O.SHIVANANDA (LATE), NEAR UMA HOSPITAL
BATTAMPARA, KASARAGOD.
2. ABHI @ ABHISHEK, AGED 18 YEARS
S/O.GANGADHARA, MUTHAPPAN COMPOUND, PARAKKATTA
KUDLU VILLAGE, KASARAGOD TALUK.
3. AKSHAY RAI, S/O.PADMANABHA RAI, AGED 24 YEARS
PACHAKKAD HOUSE, R.D.NAGAR
NEAR GOPALAKRISHNA TEMPLE, KUDLU, KUDLU VILLAGE
KASARAGOD TALUK.
4. KRISHNA K., S/O.KESHAHA, AGED 30 YEARS
ANANKOOR ROAD, PARAKKATTA, MEEPURGIRI
KUDLU VILLAGE, KASARAGOD TALUK.
5. VIJESH K. @ VIJU, AGED 24 YEARS,
S/O.KUMARAN, ALANKODU COLONY,
VIVEKANANDA NAGAR, MANNIPPADI
KUDLU VILLAGE, KASARAGOD TALUK.
6. JYOTHISH @ JYOTHISH KUMAR, AGED 26 YEARS
S/O.GOPALAKRISHNAN, J.P.C.COLONY, ANANGOOR
KUDLU VILLAGE, KASARAGOD TALUK.

BY ADVS.SRI.A.ARUNKUMAR
SRI.P.K.SUBHASH

PJ

....2/-

Bail Appl..No. 841 of 2015

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 OF 2014 OF KASARAGOD POLICE STATION)
KASARAGOD DISTRICT - 670 001.

* ADDL.R3 IMPEADED

3. MUHAMMED KUNHI, S/O.AHAMMED,
AGED 60 YEARS, RESIDING AT THOUFEEQUE MANZIL,
NUSARATH ROAD, THALANGARA P.O.,
KASARAGOD DISTRICT-671122.

ADDL.R3 IS IMPEADED AS PER ORDER DATED 24-2-2015 IN
CRL.MA.NO.1524/2015

R1 & 2 BY PUBLIC PROSECUTOR SRI.C.RASHEED
R3 BY ADV. SRI.P.M.HABEEB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24-02-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PJ

B. KEMAL PASHA, J.

.....
B.A. No.841 2015
.....

Dated this the 24th day of February, 2015

ORDER

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Petition filed under Section 439 Cr.P.C.

2. Petitioners are A9, A10, A11, A12, A14 and A8 respectively in Crime No.1048/2014 of 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 Kasaragod Police Station, the petitioners along with the other accused hatched a criminal conspiracy to do away with deceased Zainul Abid, 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. Petitioners 1 to 3 were arrested on 26.12.2014 and petitioners 4 and 5 were arrested on 13.12.2015 and the 6<sup>th</sup> petitioner was arrested on 02.01.2015 and thereafter, they have been in custody.

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

5. The learned Senior Public Prosecutor has pointed out that A8, who is the 6<sup>th</sup> petitioner herein, is an accused in seven other criminal cases and he is a hardened criminal. Similarly, A9, who is the 1<sup>st</sup> petitioner herein, and A11, who is the 3<sup>rd</sup> petitioner herein, are also involved in another case involving the offence under Section 153 IPC. It seems that the incident in the case in hand has also occurred on

account of communal hatred. When the aforesaid petitioners have involved in cases involving the offence under Section 153A IPC, I am of the view that they are not entitled to be enlarged on bail. At the same time, no criminal antecedents have been reported against A10, A12 and A14. Having regard to the period undergone by A10, A12 and A14 in custody, I am satisfied that they can be enlarged on bail.

6. In the result, this Bail Application is allowed in part and petitioners 2, 4 and 5 shall be enlarged on bail on each of them 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) Petitioners 2, 4 and 5 shall report before the Investigating Officer in between 9 a.m. and 11 a.m. on all Tuesdays and Fridays commencing from 03.03.2015 for a period of six months.*

*(ii) Except for observing condition No.(i) above, petitioners 2, 4 and 5 shall not enter the Kasaragod District for a period of six months from today.*

*(iii) Petitioners 2, 4 and 5 shall not tamper with the evidence or influence witnesses.*

*(iv) Petitioners 2, 4 and 5 shall make themselves available for interrogation as and when required by the Investigating Officer.*

*(v) Petitioners 2, 4 and 5 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.

As far as petitioners 1, 3 and 6 are concerned, this bail application is dismissed.

Sd/-  
**(B.KEMAL PASHA, JUDGE)**

aks/24/02

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*PA to Judge*