IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

Bail Appl..No. 940 of 2015

CRIME NO. 644/2014 OF THRIKKAKARA POLICE STATION, ERNAKULAM DISTRICT.

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PETITIONER(S)/ACCUSED 1 & 4:

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1. **AMAL DEV, AGED 20, S/O.PRINCE C.D., CHULLIPARAMBIL HOUSE, CHEMBUMUKKU, KAKKANAD WEST P.O., ERNAKULAM DISTRICT.**

2. **SUJITH, AGED 24 YEARS, S/O.APPU, CHAKKEDATHU HOUSE, CHEMBUMUKKU KARA.**

BY ADV. SRI.S.DILEEP (KALLAR)

RESPONDENT/COMPLAINANT:

STATE OF KERALA, REPRESENTED THROUGH (SUB INSPECTOR OF POLICE,THRIKKAKARA POLICE STATION) PUBLIC PROSECUTOR, HIGH COURT OFKERALA AT ERNAKULAM, COCHIN - 31.

BY PUBLIC PROSECUTOR SMT.MADHUBEN.M

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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SUNIL THOMAS, J.

B.A. No. 940 of 2015

Dated this the 9th day of July, 2015

O R D E R

Accused no. 1 and 4 in Crime No. 644/2014 of Thrikkakara police station for offences punishable under section 326, 324, 323 and Section 34 of IPC seeks pre arrest bail.

2. The defacto complainant submitted to the police that on 13.05.2014 at about 6 p.m, all the accused, totaling to four in number, assaulted him. He alleged that the 1st accused hit on the various parts of his head using a fuse carrier and the 4th accused hit with a helmet. The 2nd accused fisted on the various parts of the body. He started bleeding and was immediately rushed to the hospital. A complaint was lodged before the police, where upon crime was registered. Apprehending arrest, the accused no. 1 and 4 have approached this Court.

3. Heard and examined the records.

4. As revealed from the FIR, the 1st accused hit on the various parts of the head with the fuse carrier, whereas the 4th accused hit on the body with a helmet. From the nature and the sequence of incident mentioned by the defacto complainant, it appears that the main overtact resulting in grievous injury was committed by the 1st accused. The wound certificate shows that he had sustained a fracture of the left zygomatic arch and lean a fracture of the lateral wall of the left side. It appears that this injury was caused essentially by the 1st accused. However, the role played by the 4th accused cannot be lightly seen, though it is doubtful whether it was the act of the 4th accused that caused the injury. The recovery of the fuse carrier is to be effected. Hence, I am not inclined to grant pre arrest bail to the 1st accused who not only started the attack, but also committed the main overtact.

5. Definetly the 2nd, 3rd, and 4th accused are

alleged to have facilitated and the 4th accused even used a helment. Still I am inclined to put him on a different pedestal and inclined to grant bail to 4th accused, ofcourse, subject to the strict following conditions. Hence, the bail application is allowed in part as follows:

1) The bail application submitted by the 1st accused is rejected.

2) The bail application of the 4th accused(2nd petitioner) is allowed as follows:

   a) The 4th accused (the 2nd petitioner) shall offer himself for interrogation by appearing before the investigating officer on 17.07.2015 between 9 a.m and 10 a.m. After interrogation, if the Investigating Officer proposes to arrest him, he shall be released on bail on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties for

the like sum each.

b) He shall appear before Investigation Officer on all Tuesdays between 10 a.m and 11 a.m for a period of one month from the date of execution of the bond as above and shall not get involved in any crime.

c) He shall co-operate with the investigation and shall not in any manner interfere with the process of investigation, threaten, coerce or intimidate the witness.

Petition is allowed in part as above.

Sd/-
SUNIL THOMAS
JUDGE

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