

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

Bail Appl.No. 1234 of 2015

CRIME NO. 72/2015 OF KUZHALMANNAM POLICE STATION, PALAKKAD
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PETITIONER(S)/ACCUSED NOS 1 TO 5:

1. VINEETH, AGED 29 YEARS,
S/O.UNNIKANNAN, PULINELLI HOUSE, KANNANUR P.O.,
PALAKKAD DISTRICT.
2. KANAKA BABU, AGED 25 YEARS,
S/O.KALADHARAN, MELEPPURA, KANNANUR,
PALAKKAD DISTRICT.
3. MIDHUN, AGED 18 YEARS,
S/O.MOHANAN, PUTHANPURA, KANNANUR,
PALAKKAD DISTRICT.
4. AJAYAN, AGED 19 YEARS,
S/O.KRISHNAN, THAZHATHEPURA, KANNANUR,
PALAKKAD DISTRICT.
5. MAHESHKUMAR, AGED 25 YEARS,
S/O.VELAYUDHAN, PADINJAMURI, THARUVAKKURISSI,
KANNADI, PALAKKAD DISTRICT.

BY ADV. SRI.NIREESH MATHEW

RESPONDENT(S):

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.SREEJITH V.S.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
11-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

B.KEMAL PASHA, J.

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B.A. No.1234 of 2015

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Dated this the 11th day of March, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. The petitioners are A1 to A5 in Crime No.72 of 2015 of the Kuzhalmannam Police Station, registered for the offences punishable under Sections 143, 147, 148, 323, 324, 341 and 452 read with Section 149 of the Indian Penal Code.

3. The allegation against the petitioners is that on 19.01.2015 at 9.30 a.m., the petitioners along with the other accused formed themselves into an unlawful assembly armed with deadly weapons like iron rods, committed house trespass into the shop of the defacto complainant and they dragged the defacto complainant out of the shop. It is alleged that the 1st accused beat on his head with an iron rod and the 2nd accused beat on his leg with an iron rod. It is also alleged that the petitioners and the other accused slapped and stamped the wife, mother and the wife of the elder brother of the defacto complainant, who came to the rescue of the

defacto complainant.

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

5. It seems that another incident had occurred, for which Crime No.71 of 2015 was registered. The learned counsel for the petitioners has pointed out that this is a counter case in respect of Crime No.71 of 2015. The learned Public Prosecutor has reported that petitioners 1 and 2 have serious criminal background and they are involved in other serious criminal cases registered at the Kuzhalmannam Police Station. It is reported that the 1st petitioner is an accused in Crime No.237/2010, Crime No.22/2011 and Crime No.53/2011 also of the said Police Station. The 2nd petitioner is an accused in Crime No.190/2012, Crime No.559/2014 and Crime No.585/2014 also of the said Police Station. It has been reported that proceedings under Section 107 Cr.P.C. have been initiated against petitioners 1 and 2. As far as the other petitioners are concerned, it seems that the 3rd petitioner is involved in another crime also. Considering the series of serious criminal antecedents on the part of A1 and A2, who

are petitioners 1 and 2, I am of the view that they are not entitled to the discretionary relief of anticipatory bail. At the same time, I am of the view that anticipatory bail can be granted to petitioners 3, 4 and 5.

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 3, 4 and 5, is directed to enlarge petitioners 3, 4 and 5 on bail in the event of their arrest on each of them executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties for the like sum each to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) Petitioners 3, 4 and 5 shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Wednesdays and Saturdays commencing from 18.03.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) Petitioners 3, 4 and 5 shall not tamper with

the evidence or influence witnesses.

(iii) Petitioners 3, 4 and 5 shall make themselves available for interrogation as and when required by the investigating officer.

(iv) Petitioners 3, 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.

7. The learned counsel for the petitioners seeks for an opportunity to petitioners 1 and 2 to surrender before the investigating officer and to co-operate with the investigation.

This bail application, as far as petitioners 1 and 2 are concerned, is dismissed. At the same time, if so advised, petitioners 1 and 2 may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate petitioners 1 and 2, effect recovery if any, and conduct the investigation and produce petitioners 1 and 2 without delay before the court below, where petitioners 1 and 2 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

DSV/11/3/15

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P.A. To Judge