

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

Bail Appl..No. 1239 of 2015 ()

CRIME NO. 78/2015 OF VIDYANAGAR POLICE STATION,KASARAGOD DISTRICT

PETITIONER(S)/ACCUSED 4 AND 5:

- 1. MUHAMMED SHABITH K.M., AGED 24 YEARS, (A4)
S/O.IBRAHIM, SINAN MANZIL, THAYAL NAINMARMoola,
MUTTATHODI VILLAGE, KASARAGOD DISTRICT.**
- 2. ABDUL LATHEEF, AGED 38 YEARS, (A5)
S/O.MOIDEEN KUNHI, THAYAL NAINMARMoola,
MUTTATHODI VILLAGE, KASARAGOD DISTRICT.**

**BY ADVS.SRI.T.K.VIPINDAS
SRI.K.V.SREE VINAYAKAN
SRI.K.M.MUHAMMED HUSSAIN**

RESPONDENT/STATE:

**THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING S.H.O. VIDYANAGAR POLICE STATION,
KASARAGOD DISTRICT.**

BY PUBLIC PROSECUTOR SMT. R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 17-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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K.ABRAHAM MATHEW, J

B.A.NO.1239 OF 2015

Dated this the 17th day of July, 2015

O R D E R

Petition filed under Section 438 Cr.P.C.

2. Petitioners and the co-accused are alleged to have committed the offences under Sections 143, 147, 148, 341, 323, 324, 308 and read with Section 149 of Indian Penal Code

3. The prosecution case is that they armed with deadly weapons like iron rods assaulted the victims with weapons causing one of them serious injuries on his head.

4. Heard.

5. One of the two victims sustained an extensive injury on the head. This makes probable the prosecution version that he was attacked with a weapon like an iron rod. The learned counsel submits that the petitioners were not present along with the co-accused and there is no allegation that the petitioners used any weapon. That is true. But the nature of the weapons was such that the other members of the unlawful assembly were aware of

the co-accused carrying the weapons. In the case of an unlawful assembly it is immaterial that all the members did not use violence. The statement made by the victim to the doctor indicates that there were several people among the assailants. This is not a fit case to grant anticipatory bail.

In the result, this application is dismissed.

The learned counsel submits that the petitioners will surrender before the Judicial First Class Magistrate Court-I, Kasaragod. They may do so if they are so advised.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge