

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

Bail Appl..No. 1507 of 2015

CRIME NO. 87/2015 OF NATTUKKAL POLICE STATION , PALAKKAD DISTRICT

PETITIONER(S) :

1. HAMSAS, AGED 58 YEARS,
S/O.MUHAMMED , RESIDING AT CHERRIKKALLAN HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
2. SAINABA, AGED 49 YEARS,
W/O.HAMSAS, RESIDING AT PAROKOOTTU HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
3. CHAKKAMTHODI UMMER, AGED 56 YEARS,
S/O.MAMMAD, RESIDING AT CHAKKAMTHODI HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
4. CHAKKAMTHODI ABOOBACKER SIDDQUE, AGED 29 YEARS,
S/O.UMMER, RESIDING AT CHAKKAMTHODI HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
5. ABU, AGED 65 YEARS,
S/O.MOOSA, RESIDING AT NOCHIKKADAN HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
6. HAMSAS, AGED 60 YEARS,
S/O.ALI, RESIDING AT ONGALLUR HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
7. UMMER, AGED 58 YEARS,
S/O.ABU, RESIDING AT CHAKKAMTHODI HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
8. MUHAMMADALI, AGED 54 YEARS,
S/O.MUHAMMED, RESIDING AT VATTATHODI HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
9. AYISHA, AGED 58 YEARS,
D/O.ALI, RESIDING AT ONGALLUR HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
10. KADHEEJA, AGED 52 YEARS,
D/O.BAPPU , RESIDING AT KARAKKULAVAN HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.

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11. MUSTHAF A, AGED 43 YEARS,
S/O.KUNJAHAMMED, RESIDING AT NECHIKADAN HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
12. FATHIMA, AGED 35 YEARS,
W/O.MUSTHAF A, RESIDING AT NECHIKADAN HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
13. SHAREEF KARA, AGED 30 YEARS,
KHATHEEB, DARUSSLAMA MASJID, KODIYAMKUNNU,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
14. HAMSAKUTTY SALAFI, AGED 42 YEARS,
RESIDING AT POOTHANI HOUSE, EDATHANATTUKARA,
P.O PALAKKAD DISTRICT, PIN-678 601.
15. MUHAMMED HANEEF, AGED 59 YEARS,
S/O.KUNAYAMUDU HAJI , RESIDING AT KOLASSERRY HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
16. ABDU, AGED 57 YEARS,
S/O.HAIDER, RESIDING AT KOORIKADAN HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
17. ABDU, AGED 53 YEARS,
S/O.MAMMED, RESIDING AT CHAKKAMTHODI HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
18. UMMER, AGED 49 YEARS,
S/O.ABDULLA, RESIDING AT CHAKKAMTHODI HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
19. ABU@ NANNIPPA, AGED 64 YEARS,
RESIDING AT PADUVAN PADAN HOUSE, EDATHANATTUKARA,
P.O PALAKKAD DISTRICT, PIN-678 601.
20. ABOOBACKER, AGED 62 YEARS,
S/O.UNNI MOOSA, RESIDING AT PADUVAN PADAN HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
21. NAZAR, AGED 45 YEARS,
S/O. MUHAMMEDUPPA, RESIDING AT CHAKKAMTHODI HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.
22. KADHEEJA, AGED 45 YEARS,
RESIDING AT PADIJARAPALLA HOUSE, EDATHANATTUKARA,
P.O PALAKKAD DISTRICT, PIN-678 601.
23. HAMSA, AGED 55 YEARS,
S/O.UMMER, RESIDING AT PADUVAN PADAN HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.

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**24. HAMSAKUTTY, AGED 52 YEARS,
S/O.KUNJAPPA RESIDING AT PADUVAN HOUSE,
EDATHANATTUKARA, P.O PALAKKAD DISTRICT, PIN-678 601.**

BY ADV. SRI.P.A.ABDUL JABBAR

RESPONDENT(S)/COMPLAINANT/ STATE :

**1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**

**2. THE STATION HOUSE OFFICER,
NATTUKAL POLICE STATION MANNARKKAD,
PALAKKAD DISTRICT-678 601.**

BY PUBLIC PROSECUTOR SMT.LALIZA.T.Y

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 25-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

B.KEMAL PASHA, J.

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B.A. No. 1507 of 2015

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Dated this the 25th day of March, 2015

ORDER

Petition under Section 438 Cr.P.C.

2. According to the petitioners, they are apprehending arrest in connection with Crime No.87/2015 of the Nattukkal Police Station, Palakkad District, registered for the offences punishable under Sections 143, 147, 148, 323, 341, 427 and 452 read with Section 149 IPC.

3. The learned Public Prosecutor has pointed out that except petitioner No.17, all the other petitioners are accused in the said crime. The allegations against all the petitioners except petitioner No.17 is that on 06.02.2015 at 12.40 p.m., they formed themselves into an unlawful assembly armed with deadly weapons like sticks and stones, trespassed into the 'Darussalam Masjid', Kодиyamkunnu, Edathanattukara and obstructed the '*Kuthuba*' being conducted by the '*Imam*' and assaulted him. It is alleged that

A5 to A8 had pelted stones on the windows of the mosque and caused a wrongful loss of ₹25,000/-.

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

5. It seems that the incident had occurred in a mosque. It *prima facie* seems that an offence under Section 452 IPC cannot be attracted in the case. No other non-bailable offences are there. Considering the facts and circumstances of this case, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioners.

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 the petitioners, is directed to enlarge the petitioners on bail in the event of their arrest on each of them executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of

the officer conducting arrest, and subject to the following terms and conditions:-

(i) The petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Wednesdays and Saturdays, commencing from 01.04.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The petitioners shall not tamper with the evidence or influence witnesses.

(iii) The petitioners shall make themselves available for interrogation as and when required by the investigating officer.

(iv) The petitioners 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.

When the petitioner No.17 is not arraigned as an accused in this case, there cannot be any reasonable apprehension of arrest on the part of the 17th petitioner. Matters being so, the present bail

application, as far as the 17th petitioner is concerned, is not maintainable and hence, it is dismissed.

Sd/-
B.KEMAL PASHA, JUDGE

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//True copy//

P.Ato Judge