

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

Bail Appl..No. 2160 of 2015

CRIME NO. 64/2015 OF ELAMAKKARA POLICE STATION , ERNAKULAM

PETITIONER/IST ACCUSED:

**BIJU, AGED 30 YEARS,
S/O. CHELLAPPAN, ALIYATHPARAMBU HOUSE,
ALIYATHUPARAMBU ROAD, CHUTTUPADU KARA,
EDAPPALLY NORTH VILLAGE, ERNAKULAM.**

**BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SRI.M.F.MOHAMMOD SIYAD
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA**

RESPONDENT(S):

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTING THE STATION HOUSE OFFICER,
ELAMAKKARA POLICE STATION, ERNAKULAM-682026.**

BY PUBLIC PROSECUTOR SRI.C.RASHEED

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28-04-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

K. RAMAKRISHNAN, J.

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B.ANo.2160 of 2015
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Dated this the 28th day of April, 2015.

O R D E R

This is is an application for bail filed by the first accused in Crime No.64/2015 of Elamakkara police station under Section 439 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that on 21.1.2015 at about 9 p.m the accused persons formed themselves into an unlawful assembly with deadly weapons and on account of the common object to commit murder of the deceased, the first accused stabbed him with knife and other accused persons helped the first accused to assault the deceased and though he was taken to hospital, he died on account of the injury sustained and thereby all of them have committed the offences punishable under sections 143,147,148,341,323 and 302 read with section 149 of the Indian Penal Code.

3. Heard the learned counsel for the petitioner, the learned Public Prosecutor and perused the report of the investigating officer.

4. Smt. Monisha, the counsel appearing for the petitioner

submitted that the petitioner has not committed any offence and he is innocent of the same and he has been falsely implicated in the case. Other accused persons have already been granted bail and final report has been filed and it is now pending as C.P.No.7/2015 before the Judicial First Class Magistrate Court-II, Aluva. There is no purpose for retaining the petitioner in jail, especially when final report has already been filed. Further there is no case for the prosecution that the petitioner is involved in any other crime as well. So she prayed for allowing the application.

5. The application was opposed by the Public Prosecutor on the ground that, if he is released on bail, he is likely to influence the witnesses.

6. It is seen from the report of the investigating officer that the above crime was registered on the basis of the statement given by the brother of the defacto complainant against seven accused persons including the petitioner alleging offences under sections 143,147,148,341, 323 and 302 read with section 149 of the Indian Penal Code. It is seen from the report of the investigating officer that except the present petitioner, others were granted bail either by this Court or by the sessions

court. He is in jail from 21.1.2015 onwards. Final report has already been filed and it is now pending as C.P.No.7/2015 on the file of the Judicial First Class Magistrate Court-II, Aluva. Since final report has already been filed, there is no necessity for the detention of the petitioner in custody any longer. Further it is seen that there is no criminal background for the petitioner also so as to apprehend that he is likely to commit further offence against the relatives of the deceased. It is also seen from the report of the investigating officer that the hardware shop conducted by the petitioner has been shifted to some other place on account of the compulsion of the local people after the incident. But that is not a ground for denying bail to the petitioner, if there is no reason to believe that he is likely to flout the conditions of bail. There is no such circumstance arises in this case. He is aged only 30 years. Detaining him in jail unnecessary will make him a hardant criminal, if he is not a criminal having criminal tendency to commit crime. So under the circumstances, bail can be granted to the petitioner with some stringent conditions. So, the application is allowed with the following conditions:

- i. The petitioner shall be released on bail on executing a

bond for Rs.50,000/- with two solvent sureties for the like sum each to the satisfaction of the Judicial First Magistrate Court-II, Aluva.

ii. The petitioner shall not intimidate or influence the witnesses.

iii. The petitioner shall not enter the jurisdiction of Elamakkara police station till the disposal of the case.

iv. The petitioner shall surrender his passport, if any, before the Judicial First Magistrate Court-II, Aluva within one week from the date of release or if he is not having any passport, file an affidavit to that effect before that court within that time.

v. The petitioner shall not leave Ernakulam district without getting prior permission either from the Judicial First Magistrate Court-II, Aluva or from the court to which the case will be committed for trial till the disposal of the case.

With the above conditions, this application is allowed.

Sd/-

K. RAMAKRISHNAN, JUDGE.

/true copy/

