

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

Bail Appl.No. 2172 of 2015

CRIME NO. 394/2015 OF KODANADU POLICE STATION, PERUMBAVOOR, ERNAKULAM

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PETITIONER(S)/ACCUSED 2 AND 4:

1. JOSE, AGED 48 YEARS,
S/O. PAULOSE, KALAMBATTUKUDY HOUSE, KAVUMPURAM,
AIMURY VILAGE, KODANADU, ERNAKULAM DISTRICT.
2. LINCY, AGED 43 YEARS,
W/O. JOSE, KALAMBATTUKUDY HOUSE, KAVUMPURAM,
AIMURY VILAGE, KODANADU, ERNAKULAM DISTRICT.

BY ADV. SRI.P.A.MUJEEB

RESPONDENT(S)/COMPLAINANT:

1. STATE OF KERALA
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, COCHIN-31.

* **ADDITIONAL R2 & R3 IMPEADED.**

2. JAMES V.P., AGED 60 YEARS,
S/O.PATHROSE, VETTIKANAKUDY HOUSE,
ELAMBAKAPPILLY P.O., KOOVAPPADY VILLAGE,
ERNAKULAM DISTRICT.

3. JOSE V.P., AGED 65 YEARS,
S/O.PATHROSE, VETTIKANAKUDY HOUSE,
ELAMBAKAPPILLY P.O., KOOVAPPADY VILLAGE,
ERNAKULAM DISTRICT.

* **ADDITIONAL R2 & R3 IMPEADED AS PER ORDER DTD.25.5.2015
IN CRL.MA.NO.3570/2015.**

**R1 BY PUBLIC PROSECUTOR SRI.V.S. SREEJITH
R2-R3 BY ADVS. SRI.P.K.VARGHESE
SRI.T.M.SUDHEER**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
25-05-2015 ALONG WITH BA.NO.2266/2015, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:**

msv/

K. ABRAHAM MATHEW, J.

Bail Appl. Nos.2172 & 2266 of 2015

Dated this the 25th day of May 2015

ORDER

Petitions filed under Section 438 Cr.P.C.

2. Petitioners are accused in Crime No.394 of 2015 of Kodanadu Police station registered for the offences under Secs.323, 324, 294(b) and 308 read with Sec.34 of Indian Penal Code. The allegation is that with the common intention of causing culpable homicide not amounting to murder of the victim, the petitioners assaulted him with a spade causing injuries on his head.

3. Heard the learned counsel for the petitioners, the first informant and the learned Public Prosecutor.

4. Learned counsel for the petitioners submits that there is a civil dispute between the parties and the Police have registered a case against the 1st informant and others also for assaulting the 3rd accused in this case, Crime No.393 of 2015. A perusal of the wound certificate of the victim shows that he sustained injuries in the parietal region of the head. Prima facie the prosecution allegation is true. The weapon used was a spade, which is

a deadly weapon.

5. Having regard to these facts, I am not inclined to grant anticipatory bail to the 1st petitioners in both the applications. But the other petitioners being women will be granted anticipatory bail.

In the result, these applications are allowed in part.

1. The 2nd petitioner in each application will be released on bail after interrogation on their executing a bond for ₹.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum if they are arrested by the Police in connection with this case.

2. The 2nd petitioner in each case shall appear before the investigating officer for interrogation if they are so required by him in writing.

3. They shall not destroy or tamper with evidence.

In case of violation of any of the above

conditions, the learned Magistrate is empowered to cancel the bail in accordance with law.

These applications are dismissed so far as the 1st petitioner is concerned in each case. The learned counsel for the petitioner submits that the 1st petitioner in each case will surrender before the investigating officer. They may do so if they are so advised.

Sd/-
K. ABRAHAM MATHEW
JUDGE

NS

/ True Copy /

P.A. To Judge