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. 2264 of 2015

CRIME NO. 269/2015 OF MUHAMMA POLICE STATION , ALAPPUZHA

PETITIONER(S) :

1. **MANIYAPPAN, AGED 47 YEARS,**
   S/O.RAMAKRISHNAN, ABHAYALAM VEEDU, VARANAM P.O,
   WARD NO.5, KANJUKKUZHI PANCHAYATH.

2. **KUTTACHAN @ SAJEEV, AGED 43 YEARS,**
   S/O.RAMAKRISHNAN, BLATHUCHIRA VEEDU,
   VARANAM P.O, WARD NO.5, KANJUKKUZHI PANCHAYATH.

3. **PREMJITH @ RENJITH, AGED 27 YEARS,**
   S/O.RAVEENDRAN, JITH NIVAS, WARD NO.5,
   KANJUKKUZHI PANCHAYATH.

4. **SREEJITH, AGED 23 YEARS,**
   S/O.RAVINDRAN, JITH NIVAS, WARD NO.5,
   KANJUKKUZHI PANCHAYATH.

BY ADVS.SRI.A.JAYASANKAR
SRI.C.V.MANUVILSAN
SRI.MANU GOVIND
SMT.INDULEKHA JOSEPH

RESPONDENT(S) :

THE STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
MUHAMMA POLICE STATION, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA-682 031.

BY PUBLIC PROSECUTOR SMT.R.REMA

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

Msd.

K. RAMAKRISHNAN, J.

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B.ANo.2264 of 2015

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Dated this the 28th day of April, 2015.

O R D E R

This is an application filed by accused 2 to 5 in Crime No.269/2015 of Muhamma police station for regular bail under section 439 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that on 15.3.2015 at about 9.30 p.m, the accused persons formed themselves into an unlawful assembly with deadly weapons and criminally trespassed into the house of the defacto complainant with an intention to commit culpable homicide not amounting to murder and in pursuance to that object, the second accused stabbed him with a sword stick, the third accused inflicted cut injury with a sickle and accused 4 and 5 beat him with iron rods and caused severe fractures and also caused damage to the household articles worth Rs.1.5 lakhs and thereby all of them have committed the offences punishable under sections 143, 147, 148, 294(b), 323, 324, 326, 458, 506 (ii), 427 and 308 read with section 149 of the Indian Penal Code.

3. The counsel for the petitioners submitted that the the petitioners have not committed any offence and they are innocent of the same and they have been falsely implicated in the case. In fact, some of the accused persons were already granted bail for similar offence and overt act in the same crime and custody of the petitioners is not required any more in connection with the investigation. They are in jail from 17.3.2015 onwards.

4. The application was opposed by the Public Prosecutor on the ground that investigation is not over and the first accused is accused in other cases as well. Perused the case diary file.

5. It is seen from the case diary file that the above crime was registered on the basis of the statement given by the defacto complainant/the injured against seven named persons and other identifiable persons alleging commission of the above said offences. Later it was revealed that eleven persons including the petitioners have involved in the crime and they have been arrayed as the accused. It is seen from the report of the investigating officer that accused 2 to 6 and 8 to 10 were

arrested on various days and the present petitioners were arrested on 17.3.2015. They are in jail from that day onwards. It is seen from the records that the Additional Sessions Judge had granted bail to petitioners 4 to 8 in that case, who are accused 6 to 11, and one Deepan Ghosh, who is the 8th accused in the case, with some conditions and the application filed by the petitioners was dismissed. It is true that the second accused was accused in Crime No.271/2015 of Muhamma police station alleging offences under sections 143, 147, 148, 149, 323, 324, 458, 429 and 354 of the Indian Penal Code and others were not accused in any case. Pendency of another crime alone is not a criteria for denying bail. Custody of the petitioners is not required any more in connection with the investigation since some of the accused were already granted bail. They are in jail from 17.3.2015 onwards, that is more than a month now. Merely because other accused persons were not arrested is not a ground to deny bail to the petitioners as their custody is not required any more in connection with the investigation. So considering the circumstances, this Court feels that bail can be granted to the petitioners with some stringent conditions. So,

the application is allowed with the following conditions.

i. The petitioners shall be released on bail on executing a bond for Rs.50,000/- each with two solvent sureties for the like sum each to the satisfaction of the Judicial First Magistrate Court-II, Cherthala.

ii. The petitioners shall appear before the investigating officer last Saturday of every month between 9 a.m and 10 a.m till the final report is filed.

iii. The petitioners shall appear before the investigating officer for the purpose of interrogation in connection with the above crime as and when required in writing to do so till the final report is filed.

iv. The petitioners shall not intimidate or influence the witnesses.

v. The petitioners shall surrender their passports, if any with them, before the Judicial First Class Magistrate Court-II, Cherthala within one week of their release and if they are not having passports, file an affidavit to that effect within that time before that court.

vi. The petitioners shall not leave State of Kerala without

getting prior permission either from the Judicial First Magistrate Court- II, Cherthala 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.

cl

/true copy/

P.S to Judge