

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

Bail Appl..No. 2493 of 2015 ()

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CRIME NO. 651/2015 OF MALAPPURAM POLICE STATION.

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PETITIONERS/ACCUSED 1 TO 7:

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1. MUHAMMED K.P., S/O.ALAVI,  
AGED 52 YEARS, KOZHINJIPARAMBIL HOUSE,  
DOWNHILL POST, MYLAPPURAM, MALAPPURAM DISTRICT.
2. RASHEED K.P., S/O.AYAMU,  
AGED 41 YEARS, KOZHINJIPARAMBIL HOUSE,  
DOWNHILL POST, MYLAPPURAM, MALAPPURAM DISTRICT.
3. YOUNASALI, S/O.MUHAMMED,  
AGED 27 YEARS, KOZHINJIPARAMBIL HOUSE,  
DOWNHILL POST, MYLAPPURAM, MALAPPURAM DISTRICT.
4. NIYAS, S/O.MUHAMMED,  
AGED 26 YEARS, KOZHINJIPARAMBIL HOUSE,  
DOWNHILL POST, MYLAPPURAM, MALAPPURAM DISTRICT.
5. SHAFEEQUE, S/O.BEERANKUTTY,  
AGED 26 YEARS, KOZHINJIPARAMBIL HOUSE,  
DOWNHILL POST, MYLAPPURAM, MALAPPURAM DISTRICT.
6. NAVAS, S/O.MUHAMMED,  
AGED 21 YEARS, KOZHINJIPARAMBIL HOUSE,  
DOWNHILL POST, MYLAPPURAM, MALAPPURAM DISTRICT.
7. NOUFAL, S/O.MUHAMMED,  
AGED 18 YEARS, KOZHINJIPARAMBIL HOUSE,  
DOWNHILL POST, MYLAPPURAM, MALAPPURAM DISTRICT.

BY ADVS.SRI.M.S.IMTHIAZ AHAMMED,  
SRI.SHIRAZ ABDULLA.

**Bail Appl..No. 2493 of 2015**

**RESPONDENT/COMPLAINANT:**

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**STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA.**

**BY PUBLIC PROSECUTOR SMT.R. REMA.**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 04-06-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**rs.**

**K.ABRAHAM MATHEW J.**

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**B.A. NO.2493 OF 2015**  
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**Dated this the 4<sup>th</sup> day of June, 2014**

**ORDER**

Petition filed under Section 438 Cr.P.C.

2. Originally the case was registered for the offences under Sections 143, 147, 148, 447, 323, 26 and 506(ii) r/w Section 149 of IPC.

3. All the petitioners filed anticipatory bail application before the Sessions Judge who granted prayer of all the petitioners except the second one. Now this petition has been filed by all of them because a report was later filed by the investigating officer that the offence under Section 308 IPC also was committed.

4. Merely because Section 308 has been incorporated, the petitioners except the second one need not file an application under Section 438 Cr.P.C, because the investigating officer cannot deny them bail if they are arrested for the sole reason that the Section has been altered.

5. The prayer of the second petitioner was rejected by the Sessions Judge because he was armed with a weapon and he used it to cause injury to the victim. His case stands on a different footing. It is not at all proper to grant him anticipatory bail.

In the result, this application is dismissed.

**K.ABRAHAM MATHEW  
JUDGE**