

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE RAJA VIJAYARAGHAVAN.V

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

Bail Appl..No.3202 of 2015

CRIME NO.2182/2013 OF KILIKOLLOOR POLICE STATION,KOLLAM.

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PETITIONER/ACCUSED NO.19:

**NOWSHAD,AGED 44 YEARS,S/O.MUHAMMED KUNJU,
NAFI MANZIL,MULAKKADU P.O,
KOTTIYAM,KOLLAM DISTRICT.**

**BY ADVS.SRI.SALIM V.S.
SRI.H.NUJUMUDEEN**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA**

BY PUBLIC PROSECUTOR SMT.MADHUBEN.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 17-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

pk

RAJA VIJAYARAGHAVAN.V. J

B.A. 3202 of 2015

Dated 17th June, 2015

ORDER

1. The petitioner herein is the 19th accused in Crime No.2182 of 2013 of Killikollur Police station registered for offense punishable under Sections 417, 468, 471, 120B, 212, 143, 147, 148, 324, 326 and 307 r/w Section 149 IPC and under Section 27 of the Arms Act.

2. The gist of the allegation as per the earliest records is that the accused, eight in number, who could be identified on sight, formed themselves into an unlawful assembly on 26.12.2013 at about 8.25 pm armed with deadly weapons like axe, swords and iron pipes and in furtherance of their common object, attacked Vinesh at Kallumthazham junction and inflicted severe cut injuries on his body and attempted to commit murder and thereby committed the offense.

3. I have heard the learned counsel for the petitioner

as well as the learned Public Prosecutor.

4. The learned counsel for the petitioner, on the strength of the FI statement given by an eye witness to the occurrence would submit that the earliest records would reveal that the petitioner had no role to play in the incident. His name was also not mentioned in the FIR . Specific overt acts are alleged against accused Nos. 1 to 8 alone. According to the learned counsel, even if the allegation against the petitioner is admitted to be true, only Section 212 of IPC, is attracted , which is bailable. It is also submitted that, accused Nos.1 to 15 have been enlarged on bail by the Sessions Court as well as this Court on various occasions and the allegation of conspiracy against the petitioner is not borne out from the records and it is false. On these grounds, it is prayed that, the relief of pre-arrest bail be granted to the petitioner

5. The learned Public Prosecutor stated that the role attributed to the petitioner is that he had harbored the the 1st accused. At this stage, it is not possible for this

Court to conclude as to whether the petitioner is a party to the conspiracy or not. In the facts of the instant case, this Court is of the opinion that in view of the fact that no specific overt act is alleged against the petitioner and since he has been roped in under Section 120B of the Act, there is no need for the custodial interrogation of the petitioner more so because the principal accused persons have already been enlarged on bail. In view of the above, the Application can be allowed subject to following conditions:-

1. The petitioner/accused No.19, in the event of his arrest, shall be released on bail on his executing a bond for Rs. 25,000/- (Twenty Five Thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate concerned.
2. He shall surrender his passport before the learned Magistrate and in case he is not holding any passport, he shall file an affidavit stating so, within five days of his release.
3. He shall not leave India without the

previous permission of the jurisdictional court.

4. The petitioner shall cooperate with the investigation and shall appear before the investigating officer between 10 a.m and 11 a.m on every Saturday for 3 months, or till the final report is filed, whichever is earlier.

5. He shall not threaten or attempt to influence the witnesses and shall not get involved in any criminal case while on bail.

6. He shall in no event tamper or attempt to tamper with the evidence nor shall he hamper the investigation.

Violation of any of the above conditions will entitle the jurisdictional Court to cancel the bail in accordance with the law.

The Application is allowed as above.

Sd/-

RAJA VIJAYARAGHAVAN.V.
Judge

MrCS

//True Copy//

P.S.ToJudge