

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

Bail Appl..No. 3311 of 2015

CRIME NO. 499/2015 OF HILL PALACE POLICE STATION , ERNAKULAM

PETITIONER(S)/ACCUSED NO.5:

**AJAY M.S., AGED 30 YEARS,
S/O.M.C.SURENDRAN, MUNDIYATH THAZHATH HOUSE,
CHERANELLUR VILLAGE, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.B.RAMAN PILLAI (SR.)
SRI.R.ANIL
SRI.SUJESH MENON V.B.
SRI.T.ANIL KUMAR
SRI.MANU TOM
SRI.THOMAS ABRAHAM (NILACKAPPILLIL)
SRI.M.VIVEK
SRIA.RAJESH**

RESPONDENT(S)/COMPLAINANT:

**STATE,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM -682 031.**

BY PUBLIC PROSECUTOR SRI.C.RASHEED

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19-06-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

K. HARILAL, J.

B.A. No.3311 of 2015

Dated this the 19th day of June, 2015

ORDER

This is an application for anticipatory bail filed under Section 438 of the Code of Criminal Procedure.

2. The petitioner is the fifth accused in Crime No.499 of 2015 of Hill Palace Police Station, registered for the commission of offences punishable under Sections 323, 341, 326, 307, 120(B) read with Section 34 of the Indian Penal Code. Originally the crime was registered for the commission of the offences under Sections 324 and 326 read with Section 34 of the Indian Penal Code only and other offences incorporated subsequently during the course of investigation.

3. The prosecution case is that on 17.04.2015 at 8 p.m while the defacto complainant was walking from SN Junction, infurtherence of the common intention of all the accused to commit the murder of defacto complainant, the first and second accused stabbed him with knife, the third accused had beaten him with an iron rod and as a result of

which he had sustained grievous injuries. According to the prosecution the accused Nos 1 to 4 have committed the offence on the instruction of the petitioner.

4. The learned counsel for the petitioner submits that the petitioner is made an accused merely on the basis of the statement given by accused Nos. 1 to 4 at a belated stage. No material connecting the petitioner with the commission of the alleged offence, has been recovered so far. Accused Nos.1 to 4 were arrested and released on bail. The investigation of the case is practically over and the custodial interrogation is not necessary for further investigation of the case.

5. The learned Public Prosecutor on instructions submits that the petitioner is made an accused on the basis of a confession statement given by accused Nos.1 to 4 and his presence is required for further investigation. If anticipatory bail is granted it may adversely affect the further investigation of the case.

6. After having heard the learned counsel for the petitioner and the learned Public Prosecutor and perused the records made available, it is felt that, this is a proper

case where extra ordinary jurisdiction of this court under Section 438 of the Cr.P.C. can be exercised in favour of the petitioner, on stringent conditions. Hence the bail application is allowed as follows:-

i). The petitioner shall surrender before the investigating officer on or before 26.06.2015, and after interrogation the investigating officer shall produce the petitioner before the Judicial First Class Magistrate Court concerned on the same day, which court on application being moved by the petitioner shall release him on bail on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) with solvent sureties each for the like sum to the satisfaction of the Judicial First Class Magistrate, concerned.

ii). The petitioner shall appear before the investigating officer for interrogation as and when required by him.

iii). The petitioner shall not tamper or attempt to tamper with the evidence or influence or try to influence the witnesses who are acquainted with facts and circumstances of the case.

If any of the condition is violated, bail granted shall stand cancelled and the Judicial First Class Magistrate concerned on being satisfied of the facts, may take such proceedings as are available to him in law.

sd/-
K. HARILAL,
JUDGE

R.AV

//True Copy//

PA to Judge