

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

Bail Appl..No. 3365 of 2015 ()

CRIME NO. 298/2015 OF VALAPPAD POLICE STATION, THRISSUR DISTRICT

PETITIONERS/ACCUSED :

- 1. RAJAN, AGED 54 YEARS
S/O.GOPALAN, VELAYAMPARAMBIL HOUSE,
KAZHIMBRAM DESOM, THRISSUR DISTRICT.**
- 2. SHAJI, AGED 43 YEARS
S/O.BALAN, KURUPPATH HOUSE, KAZHIMBRAM DESOM
THRISSUR DISTRICT.**
- 3. SAJEEVAN, AGED 42 YEARS
S/O.VELAYUDHAN, VALIYAPURAKKAL HOUSE,
KAZHIMBRAM DESOM, THRISSUR DISTRICT.**
- 4. SARATH, AGED 22 YEARS
S/O.SASI, KURUPPATH HOUSE, KAZHIMBRAM DESOM
THRISSUR DISTRICT.**
- 5. FREDDI, AGED 51 YEARS
S/O.ANBAR, MERIWELL HOUSE, KAZHIMBRAM DESOM
THRISSUR DISTRICT.**

**BY ADVS.SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.KANDAMPULLY RAHUL
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR**

RESPONDENT/COMPLAINANT :

**STATE OF KERALA
REPRESENTED BY SUB INSPECTOR OF POLICE
VALAPPAD POLICE STATION THROUGH PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26-06-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

B.SUDHEENDRA KUMAR, J.

Bail Application No.3365 of 2015

Dated this the 26th day of June 2015

O R D E R

The petitioners are the accused in Crime No.298/2015 of Valappad police station registered under Sections 143, 147, 148, 341, 323, 324 and 308 read with Section 149 I.P.C.

2. The allegation of the prosecution can be briefly stated thus:- On 31.3.2015 at about 10 p.m., the petitioners and the other accused formed themselves into an unlawful assembly, committed rioting with deadly weapons and attacked the *defacto complainant* causing injuries on him. The petitioners have filed this application praying for the

relief under Section 438 Cr.P.C.

3. Heard.

4. The learned Public Prosecutor has opposed the application as regards the first petitioner, who is the first accused in the crime. It appears that the first accused used a sword to inflict injuries on the *defacto complainant*. The *defacto complainant* sustained injuries including an incised wound on his forehead due to the attack by the first accused with the sword. The other accused did not use any weapon to inflict any injury on the *defacto complainant*. Considering the said circumstances, I am of the view that this is fit case wherein an order under Section 438 Cr.P.C. in favour of petitioner Nos.2 to 5 will be

justified in this case. However, the first petitioner used a sword to inflict injuries on the *defacto complainant*. This would show that the first accused was carrying a sword with him. The recovery has to be effected from the first accused. Considering the facts and circumstances of the case, including the allegations raised against the first accused, I am not inclined to grant the relief under Section 438 Cr.P.C. in favour of the first petitioner.

In the result, this application stands dismissed as regards the first petitioner and allowed as regards petitioner Nos.2 to 5 and the respondent is directed to release petitioner nos.2 to 5 on bail in the event of their arrest in connection with Crime No.298/2015 of Valappad

police station, on condition of each of the petitioner Nos.2 to 5 executing a bond for Rs.30,000/- (Rupees thirty thousand only) each with two solvent sureties each, each for the like sum to the satisfaction of the Sub Inspector of Police, Valapattanam Police Station, before whom petitioner Nos.2 to 5 shall surrender within ten days and subject to the following further conditions:

(i) Petitioner Nos.2 to 5 shall report before the Investigating Officer on every Monday between 9 a.m. and 11 a.m. for six months and thereafter, as and when required by the Investigating Officer for interrogation.

(ii) Petitioner Nos.2 to 5 shall not intimidate

or influence the witnesses or in any way tamper with the investigation.

(iii) Petitioner Nos.2 to 5 shall not get involved in any offence while on bail.

SD

**B.SUDHEENDRA KUMAR,
JUDGE**

dl

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/PATO JUDGE /