

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

Bail Appl..No. 3688 of 2015 ()

CRIME NO. 594/2015 OF KASABA POLICE STATION, PALAKKAD DISTRICT

PETITIONERS/ACCUSED NOS. 2 & 3 :

- 1. AJITH KUMAR, AGED 20 YEARS
S/O.KUMAR, THOTTUMEDU HOUSE, CHADAYAN KALAYI
KANJIKODE WEST P.O., PALAKKAD-678623.**
- 2. RAJESH A., AGED 25 YEARS
S/O.ARUMUKHAN, SOORYA NAGAR, KANJIKODE P.O.,
PALAKKAD-678 621.**

**BY ADVS.SRI.T.B.HOOD
SMT.M.ISHA**

RESPONDENT/STATE :

**STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE
KASABA POLICE STATION, PUDUSSERY, PALAKKAD-678 007
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
KOCHI-682 031.**

BY PUBLIC PROSECUTOR SRI. SREEJITH V.S.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08-07-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

K. ABRAHAM MATHEW, J.

B.A. No.3688 of 2015

Dated this the 8th day of July, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are alleged to have committed the offence under Section 27(2) of the Arms Act.

3. According to the prosecution they were found to be in possession of a sword and an iron rod.

4. Heard.

5. The learned counsel submits that there is no allegation that the petitioners used the weapons which were allegedly found in the possession and Section 27(2) of the Arms Act is not attracted. He places relies on the decision of the Hon'ble Supreme Court in ***[Mahendra Singh Vs. State of West Bengal (1974) 3 SCC 409]***.

In that case the Supreme Court held that unless there is evidence to prove that the accused used the arm conviction under Section 27(2) of the Arms Act cannot be sustained. In this case there is no allegation that the petitioners used the arms. So I am inclined to grant their

prayer for anticipatory bail.

In the result, this application is allowed.

1. The petitioners shall be released on bail after interrogation on their executing a bond for Rs.50,000/- (Rupees Fifty thousand only) each with two solvent sureties for the like sum each if they are arrested by the police in connection with this case.

2. They shall appear before the investigating officer between 10 a.m to 11 a.m on every Friday for four months or till the final report is filed whichever is earlier.

3. They shall not get themselves involved in any other criminal case while they are on bail.

4. They shall not intimidate or attempt to influence the witnesses.

5. They shall not destroy or tamper with evidence.

6. They shall surrender their passport before the lower court concerned of if they do not have one, they shall file an affidavit to that effect within five days of their release.

7. They shall not leave India without the previous permission of the court of enquiry or trial court as the case

may be.

In case of violation of any of the above conditions, the learned Magistrate is empowered to cancel the bail in accordance with law.

If the petitioner surrenders before the Magistrate this order is not applicable and the learned magistrate may pass appropriate orders.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge