

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

Bail Appl..No. 4356 of 2015 ()

(CRIME NO. 706/2015 OF TANUR POLICE STATION , MALAPPURAM)

PETITIONER(S)/ACCUSED NOS.1 & 2:

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- 1. MUJEEB RAHMAN ,
AGED 29 YEARS,
SON OF IBRAHIM, ENINTE PURAKKAL HOUSE,
CHEERAN KADAPPURAM, PUTHIYA KADAPPURAM.P.O., TANUR VIA
MALAPPURAM DISTRICT.**
 - 2. MOHAMMED KASIM K.P
AGED 29 YEARS ,
SON OF BAPPUTTY, KUNHALINTE PURAKKAL HOUSE,
CHEERAN KADAPPURAM, PUTHIYA KADAPPURAM.P.O., TANUR VIA
MALAPPURAM DISTRICT.**

BY ADV. SRI.K.P.SUDHEER

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTING SUB INSPECTOR OF POLICE,
TANUR POLICE STATION, TANUR-676 302
MALAPPURAM DISTRICT.**

BY PUBLIC PROSECUTOR SRI.V.SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 27-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

vmr.

SUNIL THOMAS, J.

B.A. No.4356 OF 2015

Dated this the 27th day of July, 2015

O R D E R

The petitioners stand as accused in Crime No.706/2015 of Tanur Police Station, for offences punishable under Sections 143,147,148,324,341 & 326, 506(2) read with Section 149 of IPC.

2. The prosecution alleged that on 22/06/2015 at about 1 p.m. While the de facto complainant was proceeding along the road, he was attacked by the accused, armed with iron rod and a sword. The de facto complainant and another person sustained injuries and they were taken to the hospital. Pursuant to the complaint, FIS was laid and crime was registered. Apprehending arrest, the petitioners seek pre-arrest bail.

2. Heard the counsel for the petitioners and the learned public prosecutor. Examined the records.

3. Even though the allegations of the de facto complainant were directed against more than three persons, in the course of investigation the allegation narrowed down to the petitioners herein. The version in the FIS is directly attributed to the first accused in so far as it relates to the use of weapon. Though

the name of the second accused is seen mentioned, specific use of an arm by him is not mentioned. The wound certificate available indicates that the first injured had sustained a lacerated wound on the left forum and dorsum, which was partially cut. There is a reported fracture of the third ulna. However, injury caused to the second person, is not much serious. However, specific allegation is against the first accused, especially in relation to the use of an arm. Since the recovery of the arm is not effected, I am not inclined to grant bail. However, the learned counsel for the petitioners at this juncture requested that in the event of the first accused surrendering, his bail application may be considered at the earliest. It is made clear that the present order will not stand in the way of the first accused appearing before the investigating officer or before the jurisdictional Magistrate and in the event of his surrender before the investigating officer, he may be produced before the jurisdictional Magistrate at the earliest. In the event of any bail application being moved, it may be considered by the learned Magistrate, if possible, on the same day itself and may be disposed of on merits untrammelled by any of the observations made above.

4. However, in so far as it relates to the second accused, he stands at different footing. Though his name is mentioned in the FIS, specific overtact, much less the use of any weapon is not alleged

against him. I am inclined to take a lenient view, in so far as the second accused is concerned, for the further reason that he is not not involved in any other case. Even though learned counsel for the petitioners vehemently argued relying on Annexures A2 and A3 that the defacto complainant is involved in several other cases and that the FIS exhibits a highly embellished version of the incident, even against the persons who were subsequently found to be not involved, I am not inclined to go into the merits of the above allegation, in the light of the fact that even the available materials do not specifically refer to the use of arm by the second accused. Hence, I am of the view that the pre-arrest bail can be granted to the second accused alone. Hence the petition is allowed in part as follows:

i) The anticipatory bail petition of the first accused is dismissed.

ii). The second accused is granted bail subject to the following conditions:

a). He shall appear before the investigating officer on 4/8/2015 between 10 and 11 a.m. He shall offer himself for interrogation and after conclusion of it, he shall be released on bail on he executing a bond for a sum of Rs.40,000/- (Rupees Forty Thousand only) with two sureties each for the like sum.

b). He shall not get involved in any other identical offence, threaten, coerce or intimidate the defacto complainant and the

witnesses.

The petition is allowed as above.

Sd/-

SUNIL THOMAS

Judge

dpk

/true copy/ P.S. To Judge.

