

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937

Bail Appl..No. 4393 of 2015

**CRIME NO.584/2007 OF FORT POLICE STATION, THIRUVANANTHAPURAM
DISTRICT, NOW PENDING AS CBCID CRIME NO.712/CR/HHW/TVM/2012**

PETITIONER(S)/A9 & A10 :

- 1. RAJESH, AGED 37 YEARS,
S/O.RAGHAVAN NAIR, CLRA-88, T.C.42/121(4),
CHEPPIL LANE, NEAR KILIKKODE, SREEVARAHAM WARD,
MUTTATHARA VILLAGE, THIRUVANANTHAPURAM.**
- 2. SATHEESH KUMAR, AGED 37 YEARS,
S/O.MANIYAN, NALPPARA VEEDU, T.C. 36/1663,
NEAR SREEVARAHAM MARKET, PERUNTHANNI WARD,
PETTAH VILLAGE, THIRUVANANTHAPURAM.**

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENT(S)/STATE :

**STATE OF KERALA,
REPRESENTED THROUGH THE DETECTIVE INSPECTOR,
CRIME BRANCH CBCID, HHW-1, THIRUVANANTHAPURAM,
REPRESENTED THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.C.RASHEED

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 05-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

K. ABRAHAM MATHEW, J.

B.A. No.4393 of 2015

Dated this the 5th day of August 2015

ORDER

Petition filed under Section 439 Cr.P.C.

2. Petitioners are accused nos.9 and 10 in Crime No.584 of 2007 of Fort Police station, Thiruvananthapuram registered for the offences under Secs.143, 147, 148, 120B and 302 of the Indian Penal Code. When the case was registered, the petitioners were not on the array of accused. After final report was filed, the case was taken on the file of the Magistrate concerned as C.P. No.28 of 2011. Thereafter, further investigation was ordered. In the supplementary final report the petitioners have been arrayed as accused nos.9 and 10. The prosecution case is that they along with the co-accused assaulted the victim with dangerous weapons pursuant to a conspiracy entered into for his murder and as a result of the injuries sustained by him, the victim died.

3. Heard both sides.

4. Learned counsel submits that the involvement of the petitioners was not disclosed in the earlier statements of the witnesses recorded under Sec.161 Cr.P.C. and the disclosure in their subsequent statements that the petitioners were also involved in the incident cannot be believed.

5. I have perused the case diary. Further investigation was ordered only because the earlier investigation was not satisfactory. So on the ground that the involvement of the petitioners had not been disclosed in the earlier investigation, the Court cannot come to the conclusion that the allegations against them are false. In the further investigation, the occurrence witnesses have mentioned the role played by the petitioners. There was enmity between the deceased and the first accused. The petitioners and the co-accused are members of a political party. The deceased also was a member of that party. A few months before the incident, he joined another party. Moreover, the deceased allegedly went to the venue

where a function was going on in connection with the marriage of a cousin of the first accused on the previous day of the marriage. He was armed with weapons and he created a commotion there. It is alleged that it is on account of this enmity, the accused committed murder of the deceased. As of now, there is nothing to disbelieve the statements given by the occurrence witnesses. It is true that the petitioners have been in custody since 11.07.2015. It appears that if they are released on bail at this stage, there is every likelihood of their intimidating the witnesses. So I am not inclined to grant their prayer.

In the result, the bail application is dismissed.

Sd/-
K. ABRAHAM MATHEW
JUDGE

/ True Copy /

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P.A. To Judge