

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

Bail Appl..No. 4486 of 2015

CRIME NO. 1356/2015 OF KUNNAMKULAM POLICE STATION , TRISSUR

PETITIONER(S)/ACCUSED:-:

1. ASHARAF, AGED 48 YEARS
S/O.ASHRAFF, KOZHINGALAVALAPPIL HOUSE, KARIKLAD P.O.
PERIMPLAVU, THALAPPILLY TALUK, THRISSUR - 680 519.
2. SHAHID, AGED 24 YEARS,
S/O.ASHRAFF, KOZHINGALAVALAPPIL HOUSE, KARIKLAD P.O.
PERIMPLAVU, THALAPPILLY TALUK, THRISSUR - 680 519.
3. HASHIM, AGED 22 YEARS,
S/O.ASHRAFF, KOZHINGALAVALAPPIL HOUSE, KARIKLAD P.O.
PERIMPLAVU, THALAPPILLY TALUK, THRISSUR - 680 519.
4. ISMAYIL, AGED 18 YEARS,
S/O.ASHRAFF, KOZHINGALAVALAPPIL HOUSE, KARIKLAD P.O.
PERIMPLAVU, THALAPPILLY TALUK, THRISSUR - 680 519.
5. SHIHABUDHIN, AGED 19 YEARS,
S/O.ASHRAFF, KOZHINGALAVALAPPIL HOUSE, KARIKLAD P.O.
PERIMPLAVU, THALAPPILLY TALUK, THRISSUR - 680 519.

BY ADV. SRI.RAJIT

RESPONDENT(S)/STATE:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31-07-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

K. ABRAHAM MATHEW, J.

B.A. No.4486 of 2015

Dated this the 31st day of July 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are accused in Crime No.1356 of 2015 of Kunnamkulam Police station registered for the offences under Secs.143, 147, 323, 341 and 506(1) read with Sec.149 of the Indian Penal Code and Sec.3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The prosecution case is that they wrongfully restrained the victim, assaulted and threatened him and called him, who belongs to a Scheduled Caste, his caste name.

3. Heard both sides.

4. Sec.18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act takes away the jurisdiction of this Court under Sec.438 Cr.P.C. But the specific case of the prosecution is that it was only the 2nd petitioner who committed the offence under Sec.3 (1)(x) of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act. There is no such allegation against the other petitioners. So the bar is not applicable to the other petitioners.

In the result, the bail application is allowed in part.

1) The petitioners except the 2nd petitioner 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 each for the like sum if they are arrested by the Police in connection with this case.

2) They shall appear before the Investigating Officer for interrogation if they are so required by him in writing.

3) They shall surrender their passports before the lower court concerned or if they do not have the one, file affidavits to that effect.

4) They shall not leave India without the previous permission of the court of enquiry or

the trial court concerned as the case may be.

5) They shall not destroy or tamper with evidence nor shall they get themselves involved in any other criminal case.

6) They shall not intimidate or attempt to influence the witnesses.

7) They shall co-operate with investigation of the case.

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

If the petitioners surrender before the Magistrate, this order is not applicable and the learned Magistrate may pass appropriate orders. The application is dismissed so far as the 2nd petitioner is concerned. It is made clear that there is no legal impediment for the Magistrate to grant regular bail to the 2nd petitioner if he deserves it.

Sd/-
K. ABRAHAM MATHEW
JUDGE

/ True Copy /

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P.A. To Judge