

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

Bail Appl..No. 5619 of 2015

CRIME NO. 509/2015 OF MANKARA POLICE STATION, PALAKKAD DISTRICT.
.....

PETITIONER/ACCUSED NO.1:

**HARIS, AGED 34 YEARS,
S/O SHAHUL HAMEED,
KANJIRAKKODE HOUSE,
KODUNTHIRAPULLI P.O,
PALAKKAD DISTRICT.**

**BY ADVS.SRI.SALIM V.S.
SRI.H.NUJUMUDEEN**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA, THROUGH
THE SUB INSPECTOR OF POLICE,
MANGARA POLICE STATION,
PALAKKAD DISTRICT,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN-682 031 .**

BY PUBLIC PROSECUTOR SRI.K.K.RAJEEV

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 02-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

K.P. JYOTHINDRANATH, J.

B.A. No.5619 of 2015

Dated this the 2nd day of December, 2015

O R D E R

This is an application filed under Section 438 of the Code of Criminal Procedure.

2. The petitioner is the first accused in crime No.509/2015 of Mangara Police Station, which is registered for the offences under Sections 143, 147, 148, 307 r/w. Section 149 of I.P.C.

3. When the petition taken up today, the learned counsel for the petitioner submitted before me that practically in this case the investigation is complete. It is also the submission made before me that accused Nos.2 and 3 were already arrested and granted bail by this court. It is also the submission that the weapon alleged is a sword, which was, as per the prosecution case, in the hands of accused No.2 and no further recovery is necessary. It is the further submission that there was counter crime registered against the defacto complainant, wherein the crime number is 508/2015. It is the further submission that

after the incident, so far there is no other incidents. As such, by granting anticipatory bail, no harm will be occurred. It is also the submission that no incarceration is warranted in this case much less an arrest and interrogation. It is also the submission that the petitioner is ready to co-operate with the investigation.

4. I heard the learned Public Prosecutor, who submitted before me that the major offence is under Section 307 of IPC. It is the case that both the factions used dangerous weapons like sword. Prior animosity led to such an event. It is the further submission that even though accused Nos.2 and 3 are already granted bail, it was only after two remand periods. It is the further submission that if the petitioner is granted anticipatory bail, it will cause hurdle in the process of investigation as the police will not be getting an opportunity to interrogate the petitioner.

5. It is a fact that in both the case and counter case, the major offence is under Section 307 of IPC and in both cases weapon like sword are used. The incident was on 14.8.2015. The offence alleged is exclusively triable by

Court of Sessions.

After evaluating all such circumstances and also keeping in mind that the prosecution got a case that further interrogation of the petitioner is necessary, I feel that this is not a fit case where the extraordinary jurisdiction vested upon this court can be invoked. But at the very same time, the petitioner can very well surrender before the police. If so advised, petitioner can surrender before the police and co-operate with the investigation. If the petitioner surrendered before the police and his arrest and detention is necessary, he shall be arrested and immediately produced before the learned Magistrate and if a bail application is moved therein and if no custodial interrogation is necessary, appropriate orders shall be passed by the concerned Magistrate after hearing the Prosecutor.

Sd/-
K.P. JYOTHINDRANATH
JUDGE
//True copy//

P.A. TO JUDGE

shg/