

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

Bail Appl..No. 5708 of 2015

CRIME NO. 173/2015 OF PERAMANGALAM POLICE STATION , TRISSUR

PETITIONER(S)/ACCUSED:

**MOHAMMED NISHAM A.A, AGED 39 YEARS,
S/O.ABDUL KHADER, ADAKKAPRAMBIL HOUSE, PADIYAM,
MUTTICHOOR, THRISSUR.**

**BY ADVS.SRI.B.RAMAN PILLAI (SR.)
SRI.M.SUNILKUMAR
SRI.SUJESH MENON V.B.
SRI.TANIL KUMAR
SRI.MANU TOM
SRI.THOMAS ABRAHAM (NILACKAPPILLIL)
SRI.M.VIVEK
SRI.A. RAJESH**

RESPONDENT(S)/COMPLAINANT:

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

BY SRI.TASAF ALI, DIRECTOR GENERAL OF PROSECUTION

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23-09-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

A.HARIPRASAD,J.

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B.A.No.5708 of 2015

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Dated this the 23rd day of September, 2015

O R D E R

Application for bail under Section 439 of Cr.p.C.

2. The petitioner is the sole accused in Crime No.173/2015 of Peramangalam Police Station, registered for offences under Sections 341, 323, 324, 326, 394 (b), 506(1), 427, 449 and 302 IPC.

3. Prosecution case, in short, is thus: on 29-01-2015 at about 02.55 A.M the accused drove his Hummer Car in a high speed to Sobha City complex Puzhakkal, Thrissur. His car hit against the end of foot path and the accused became furious. He alleged callousness on the part of the deceased Chandra Bose, the watchman, who was in the security cabin. He abused the watchman as he came out to inquire about the incident. The accused slapped across his face. When the deceased towards into the security cabin for safety, the irated and fuming accused chased and attacked him from the cabin as well. He smashed the door and windows of the cabin. The informant, who was the other security personnel on the duty, tried to prevent the accused

from committing mayhem and in that process he also received assaults. Then the accused threatened to shoot Chandra Bose by using his gun. When he ran out of the security cabin, the accused chased him driving his car. He dashed and rammed the car against the deceased causing severe injuries. Thereafter the injured was taken to hospital and in the course of treatment, he succumbed to the injuries.

4. Heard Sri.B.Raman Pillai, learned senior counsel appearing for the petitioner and Sri.Asif Ali, learned Director General of Prosecution.

5. Sri.B.Raman Pillai submitted that the whole story put forward by the Prosecution is a connoted version of the real incident. According to him, the petitioner sustained several injuries in the assault by the security. Police did not take care to hospitalise him in spite of complaining of sustaining injuries. Later, he was taken to hospital as per the direction of the Magistrate. Documents are produced for perusal showing that the petitioner was taken for examination to the Government Medical College Hospital,

Thrissur and he had undergone Ortho, ENT and Ophthalmic consultations. Learned Senior Counsel would contended that the petitioner is in custody from 29-01-2015 onwards. In order to ensure a fair trial he should be on bail.

6. These contentions of the petitioner are strongly opposed by the learned Director General of Prosecution. According to him, the petitioner is a very influential person. He is involved in thirteen other cases. He is a person figuring in the rowdy list in Peramangalam Police Station. He was in detention in Kerala Anti-Social Activities (Prevention) Act (KAAPA) as well. The report submitted by the Investigating Officer is also produced for perusal.

7. Learned Senior counsel for the petitioner contented that the his detention under KAAPA is over. The other cases referred to by the prosecution are minor offences and most of them have been settled. The apprehension of the learned Director General of Prosecution is that the accused, being extremely rich and influential, is likely to influence the witness or otherwise tamper with the evidence. According to him a fair trial will become an impossibility if

he is released on bail. That apart the case is posted for trial to 26-10-2015. All the steps have been taken for starting the trial on that day.

8. The accused had moved this Court earlier under Section 482 of the Cr.P.C to quash the charges, but that did not yield any result. At this stage of this matter, I do not find any reason to release bail, the accused on especially when there is a possibility of him interfering with the witness. Therefore the application for bail is only to be dismissed.

9. The learned Senior counsel submitted that the accused had complained against the inaction on the part of Police in not giving proper treatment for his ailments. I make it clear that the learned trial Judge shall consider the plea of the accused for medical treatment if any, on the basis of the facts and materials placed before the court .

10. The learned Senior counsel sought permission of this Court to allow the defence counsel to take instructions from the accused from jail for effectively conducting the trial. The Police Officers/Jailers concerned shall give

adequate opportunity to the defense counsel, of in accordance with the relevant rules to take instructions for ensuring a fair trial.

With these observations the Bail Application is dismissed.

Sd/-
A.HARIPRASAD
JUDGE

AVS