

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

Bail Appl..No. 5750 of 2015

CRIME NO. 561/2015 OF NEDUMKANDAM POLICE STATION , IDUKKI DISTRICT

PETITIONER(S)/ACCUSED :

- 1. ELIZABATH OLIVER, AGED 62 YEARS,
W/O. LT.COL.LOVELINE OLIVER, ADVOCATE, RESIDING AT 12A,
A WHO FLATS, LOURDE HOSPITAL ROAD, VADUTHALA.**
- 2. LT.COL. LOVELINE OLIVER, AGED 70 YEARS,
S/O. LATE JOSEPH OLIVER, RESIDING AT 12A, A WHO FLATS
LOURDE HOSPITAL ROAD, VADUTHALA.**

**BY ADVS.SRI.G.KRISHNAKUMAR
SRI.K.A.ANI JOSEPH**

RESPONDENT(S) :

**STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
NEDUMKANDAM POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.S.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 28-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

A.HARIPRASAD, J.

B.A. No.5750 of 2015

Dated this the 28th day of September, 2015

ORDER

Petitioners, who are the accused in Crime No.561 of 2015 of Nedumkandam Police Station registered for offences punishable under Sections 3(1)(x) and 3(1)(xiv) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, seek pre-arrest bail under Section 438 of the Code of Criminal Procedure.

2. Gist of prosecution allegation is that the accused persons with an intention to intimidate the defacto complainant, entered his property and called out caste name causing insult. The incident was on 10.08.2015.

3. Heard both sides.

4. Learned counsel for the petitioners submitted that they are falsely implicated in the case. Aggrieved by the mischief committed by the defacto complainant, the petitioners had filed a complaint before the District Collector, Idukki. Annexure-I is the copy of the complaint. It is dated 28.07.2015, prior to the alleged incident. It is also submitted by the learned counsel that threat posed by the defacto complainant against the petitioners in implicating them in a false case was also mentioned in Annexure-I complaint.

After hearing the learned counsel on both sides, following order is passed:

In the event the petitioners surrender before the investigating officer in one week, they shall be questioned and thereafter they shall be produced before the Magistrate having jurisdiction on the date of surrender itself. If the petitioners move for bail, the court below shall consider the bail application in view of the principles laid down in **Shanu v. State of Kerala (2000 (3) KLT 452)** on the date of their surrender itself. If the petitioners do not surrender before the investigating officer within the said time, the investigating officer is free to arrest them, as if no order has been passed in this case.

Application is disposed of.

A. HARIPRASAD, JUDGE.

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