

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.HARIPRASAD**

**FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937**

**Bail Appl..No. 6036 of 2015**  
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**CRIME NO. 705/2015 OF PANGODE POLICE STATION,  
THIRUVANANTHAPURAM DISTRICT.**  
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**PETITIONERS/ACCUSED 1 TO 11:**  
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1. ARUN DUTH, AGED 23 YEARS,  
S/O K.VILAS, R/AT KIRAN BHAVAN, KANJINADA,  
PALODE, THIRUVANANTHAPURAM.
2. AKHIL DUTH, AGED 25 YEARS,  
S/O K.VILAS, R/AT KIRAN BHAVAN, KANJINADA,  
PALODE, THIRUVANANTHAPURAM.
3. ATHUL RAJ, AGED 23 YEARS,  
S/O RAVEENDRAN, R/AT MALIKA BHAVAN, KANJINADA,  
PALODE, THIRUVANANTHAPURAM.
4. LAL, AGED 28 YEARS,  
S/O RAJAN, R/AT CHANDRIKA VILASOM, KANJINADA,  
PALODE, THIRUVANANTHAPURAM.
5. LAIJU, AGED 29 YEARS,  
S/O RAJENDRAN, R/AT LIJA BHAVAN, KANJINADA,  
PALODE, THIRUVANANTHAPURAM.
6. GOPAKUMAR, AGED 37 YEARS,  
S/O RAVEENDRAN, R/AT LIJA BHAVAN, KANJINADA,  
PALODE, THIRUVANANTHAPURAM.
7. SAJEER B.R., AGED 30 YEARS,  
S/O BASHEER, R/AT LIJA BHAVAN, KANJINADA,  
PALODE, THIRUVANANTHAPURAM.
8. ANANTHU MOHAN, AGED 21 YEARS,  
S/O MOHANAN, A.S.K. BHAVAN, KANJINADA P.O.,  
PANGODE, THIRUVANANTHAPURAM, PIN:695609.
9. ASHOKAN, AGED 53 YEARS, S/O.  
"SINDHU VILASAM", KANJINADA P.O., PANGODE,  
THIRUVANANTHAPURAM, PIN:695609.

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10. SHIJUMON, AGED 27 YEARS,  
S/O MOHANAN, "SHIJU VLASAM", KANJINAD.
11. SAJIMON, AGED 27 YEARS,  
S/O MANILAL, "SAJITHRA BHAVAN", KANJINAD.

BY ADVS.SRI.P.S.SREEDHARAN PILLAI  
SRI.ARJUN SREEDHAR

RESPONDNET/COMPLAINANT AND STATE:  
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STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM-682031.

BY PUBLIC PROSECUTOR SMT.R.REMA

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 13-11-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

mbr/

**A.HARIPRASAD, J.**

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**B.A No.6036 of 2015**  
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**Dated this the 13<sup>th</sup> day of November, 2015.**

**ORDER**

Application for pre-arrest bail under Section 438 Cr.P.C.

2. Petitioners are accused Nos.1 to 11 in Crime No.705 of 2015 of Pangode Police Station registered for offences punishable under Sections 143, 147, 148, 447, 323, 324 and 326 r/w Section 149 I.P.C.

3. Prosecution case, in short, is that on 05-08-2015 at about 9.00 a.m., the petitioners formed themselves into an unlawful assembly and trespassed into the cabin of the JCB where the defacto complainant was operating the machine. He was pulled out and assaulted with weapons and thereby caused injuries.

4. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

5. Learned counsel for the petitioners submitted that illicit sand mining at the instance of a local Police Officer was resisted by the petitioners and others. Agitation was going on for a quite long

time. Infuriated by this resistance, the defacto complainant and his supporters tried to demolish the panthal where the agitators were resting. This move was resisted by the petitioners and other persons assembled there. In this scuffle, the petitioners also sustained injuries. A case and a counter case had been registered in connection with the incident. Learned Public Prosecutor opposed the bail application contending that the first accused used a rafter to beat the defacto complainant resulting in a fracture. 4<sup>th</sup> petitioner allegedly used a sword. On perusal of the wound certificate in the case diary, no corresponding injury could be seen. Considering the facts and circumstances of the case, I find that bail can be granted to the petitioner Nos.1 to 6 and 8 to 11 with following directions :

1. Petitioner Nos. 1 to 6 and 8 to 11 shall surrender before the investigating officer within a period of two weeks from today and submit themselves for interrogation. In that event, they shall be released on bail on executing a bond for Rs.25,000/- each (Rupees twenty five thousand only) with two solvent sureties each

for the like sum to the satisfaction of the Investigating Officer.

2. The sureties shall produce documents to establish their identity and solvency. The Investigating Officer need not insist on the solvency certificate, but other documents can also be perused to find out whether the sureties are solvent or not.
3. Petitioners shall appear before the Investigating Officer as and when directed.
4. Petitioners shall not influence or intimidate witnesses.
5. If any of the above conditions is violated by the petitioners, the learned Magistrate having jurisdiction is free to cancel the bail.

Considering the nature of allegations, I am of the view that 7<sup>th</sup> petitioner (first accused) is not entitled to get pre-arrest bail. Hence, following directions are issued :

The 7<sup>th</sup> petitioner (first accused) shall surrender before the Investigating Officer within a period

of two weeks from today and submit himself for interrogation. Thereafter, he shall be produced before the learned Magistrate having jurisdiction on the same day. The petitioner is free to move for regular bail before the court below. In that event, the application shall be considered on merits as expeditiously as possible. If petitioner does not surrender in the stipulated time, the Investigating Officer is free to arrest him as if no order is passed in this matter.

**Sd/-  
A.HARIPRASAD,  
JUDGE.**

amk

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PA to Judge