

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

Bail Appl..No. 6087 of 2015

CRIME NO. 394/2015 OF VIDYA NAGAR POLICE STATION, KASARGOD

PETITIONER(S)/ACCUSED :

1. **DAWOOD, AGED 37 YEARS,
S/O. ABDULRAHIMAN, RESIDING AT CITIZEN NAGAR,
CHENGALA VILLAGE, KASARAGOD TALUK & DISTRICT.**
2. **SHEMMU @ SALIM, AGED 32 YEARS,
S/O. ABDULRAHIMAN,
RESIDING AT POVVAL IN MULIYAR VILLAGE,
KASARAGOD TALUK & DISTRICT.**
3. **TENSE MOIDU @ MOIDU, AGED 66 YEARS,
S/O. PAKRU, RESIDING AT THAIVALAP, CITIZEN NAGAR,
CHENGALA VILLAGE, KASARAGOD TALUK & DISTRICT.**
4. **ABDURAHIMAN, AGED 71 YEARS,
S/O. PAKRU, RESIDING T.V.STATION, ANANGOOR,
KASARAGOD VILLAGE, KASARAGOD TALUK AND DISTRICT.**
5. **BACHI @ BASHEER, AGED 34 YEARS,
S/O. ABDULRAHIMAN,
RESIDING AT POVVAL IN MULIYAR VILLAGE,
KASARAGOD TALUK & DISTRICT.**

BY ADV. SRI.SUNNY MATHEW

RESPONDENT(S)/COMPLAINANTS AND STATE :

1. **SUB INSPECTOR OF POLICE,
VIDYANAGAR POLICE STATION, KASARAGOD DISTRICT.**
2. **STATE OF KERALA (RESPONDENTS 1 & 2)
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.T.Y.LALIZA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14-10-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

A.HARIPRASAD, J.

B.A. No.6087 of 2015

Dated this the 14th day of October, 2015

ORDER

Petition under Section 438 of the Code of Criminal Procedure.

2. Accused 1, 2, 5, 3 and 4 in Crime No.394 of 2015 of Vidyanagar Police Station are the petitioners. The offences alleged are under Sections 143, 147, 148, 341, 324, 427 and 308 read with Section 149 of the Indian Penal Code.

3. The incident was on 09.09.2015 at about 7.00 p.m., petitioner along with other accused formed themselves into an unlawful assembly, armed with iron pipes and reapers, etc. attacked the defacto complainant due to previous hostility.

4. Heard both sides.

5. Learned Prosecutor submitted that the second petitioner (second accused) is involved in three other crimes of similar nature. Injuries sustained by the defacto complainant appear to be not very serious.

Considering the antecedents of the second accused, I am not inclined to grant anticipatory bail to him. After hearing learned counsel for

the petitioners and the learned Prosecutor, I am of the view that a pre-arrest bail can be granted to the other petitioners. Hence the following orders:

- i. Petitioners 1, 3 to 5 (accused 1, 5, 3 and 4) shall surrender before the investigating officer within a period of one week and submit themselves for interrogation. Thereafter each one of them shall execute a bond for ₹50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the investigating officer.
- ii. The sureties shall produce documents to establish their identity and solvency.
- iii. They shall appear before the investigating officer as and when directed in writing and co-operate with the investigation in the matter.
- iv. They shall not influence or intimidate the witnesses.

In case of violation of any of the above conditions, the officer concerned is free to arrest the second petitioners as if no order is passed.

Second petitioner (second accused) shall surrender before the investigating officer within a period of one week and submit himself for interrogation. Thereafter, the investigating officer shall produce him before the Magistrate having jurisdiction on the date of surrender itself. In that event, he is free to move for bail and the learned Magistrate shall consider the application on merits as expeditiously as possible, if possible on the

date of production itself. If he does not surrender before the investigating officer within the said time, the investigating officer is free to arrest him, as if no order is passed in this case.

A. HARIPRASAD, JUDGE.

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