

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. 6294 of 2015

CRIME NO. 2490/2015 OF KARUNAGAPALLY POLICE STATION, KOLLAM
.....

PETITIONER(S)/ACCUSED:

**NITHIN, AGED 22 YEARS
S/O.PRABHAKARAN, MAKAYIRAM, MUZHANGODI
THODIYOOR.P.O, KOLLAM-690 523.**

**BY ADVS.SRI.P.B.SAHASRANAMAN
SRI.T.S.HARIKUMAR**

RESPONDENT(S)/THE STATE AND THE INVESTIGATING OFFICER:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR.
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
KARUNAGAPPALLY POLICE STATION, KOLLAM-690 518.**

BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

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

msv/

K.P. JYOTHINDRANATH, J.

B.A. No.6294 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. When the petition came up for hearing, the learned counsel for the petitioner submitted before me that the petitioner is now implicated in crime No.2490/2015 of Karunagappally Police Station. The allegation is that on 21.8.2015 at about 9.30 p.m. the petitioner along with about 11 persons attacked the defacto complainant and thereby committed offences under Sections 143, 147, 148, 324 and 308 r/w. Section 34 of IPC.

3. The main submission is that the petitioner was not named in the F.I.R. It is also the submission of the petitioner that the petitioner is the immediate neighbour of the defacto complainant and if he was actually in the group he would have been named in the F.I.R. itself, especially when there were three named persons and when categorically stated that there were 9 identifiable persons.

It is an indication that there is implication of this petitioner in the crime due to animosity.

4. It is also brought into my notice that there is also a connected case wherein the defacto complainant is an accused. The relevancy of the same is that on the very same date i.e. on 21.8.2015 at about 10 p.m. he along with others attacked the defacto complainant in crime No.2488/2015 of Karunagappally police station. It is also brought into my notice that the crime is registered upon a statement given by the defacto complainant herein only on the next day that also going to the police station and giving an information.

5. I heard the learned Public Prosecutor, who submitted before me that it is true that there are two crimes. But the time is different. The crime herein happened on 9.30 p.m.; whereas the other crime is at 10 p.m. It is the submission that the difference in time is a guarantee to the truthfulness of the incidents alleged. It is also the submission that in this case the major offence is under Section 308 of IPC and if anticipatory bail is granted it will adversely affect the investigation.

6. After considering the totality of the case including the nature of the weapon and the nature of the incidents, the allegations and the age of the petitioner, the following order is passed:

The petitioner, if so advised, shall surrender before the Investigating Officer within ten days of this order. On such surrender, Investigating Officer is at liberty to interrogate the petitioner. After interrogation, if the police officer feels that this is a case where arrest is necessary, he is at liberty to arrest the petitioner. After arrest, if any recovery is necessary, that also can be made. Thereafter, the petitioner shall be produced before the concerned Magistrate. On such production, if a bail application is moved by giving advance notice to the Assistant Public Prosecutor regarding the intention to surrender before the police and moving bail application, the said bail application shall be considered on the same day itself.

Sd/-
K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/