

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

Bail Appl..No. 6579 of 2015

CRIME NO. 953/2015 OF PONNANI POLICE STATION, MALAPPURAM DISTRICT.
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PETITIONER(S)/ACCUSED NOS.1&2:

- 1. MUHAMMED HANEEFA, S/O.ALU,
AGED 37 YEARS,CHAKKANDAKATH HOUSE,
PONNANI SOUTH, MALAPPURAM DISTRICT.**
- 2. SAINUL ABID, S/O.ABDUL KHADER,
AGED 21 YEARS, KONDODATHODIKA VEETIL,
PONNANI SOUTH, MALAPPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S)/STATE & COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.**
- 2. THE SUB INSPECTOR OF POLICE,
PONNANI POLICE STATION,
MALAPPURAM DISTRICT, PIN - 679577.**

BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 29-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

A.HARIPRASAD, J.

B.A No.6579 of 2015

Dated this the 29th day of October, 2015.

ORDER

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

2. Petitioners are accused Nos.1 and 2 in Crime No.953 of 2015 of Ponnani Police Station registered for offences punishable under Sections 436 r/w Section 34 I.P.C.

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

4. Prosecution case, in short, is that on 28-08-2015 between 12.30 a.m and 1.00 a.m., the defacto complainant and his children when came out to urinate, they found the petitioners and another person running away from their courtyard after setting fire to a motorbike and an auto rickshaw parked in the courtyard.

5. Learned counsel for the petitioners contended that going by the allegations raised by the prosecution, an offence under Section 436 I.P.C is not attracted because there is no case

that any dwelling house or place of worship or place where property has to be kept where set fire. That apart, the petitioners would contend that there was a previous dispute between the parties, which led to the filing of a criminal complaint at the instance of the petitioners, which is now pending trial before the learned Magistrate having jurisdiction. According to the petitioners this is an attempt to wreck vengeance on him. After hearing the counsel on both sides, I am of the view that this is a fit case wherein jurisdiction under Section 438 Cr.P.C can be invoked. Hence, following directions are made :

1. Petitioners shall surrender before the investigating officer within a period of one week from today and submit themselves for interrogation. In that event, the petitioners 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.
3. Petitioners shall appear before the Investigating Officer as and when directed.
4. Petitioners shall not influence or intimidate witnesses.

If any of the above conditions is violated by the petitioners, the learned Magistrate having jurisdiction is free to cancel the bail.

amk

Sd/-
A.HARIPRASAD,
JUDGE.

//True copy//

P.A to Judge