

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

Bail Appl..No. 7094 of 2015 ()

**CRIME NO. 1542/2014 OF KARUNAAGAPALLY POLICE STATION,
KOLLAM DISTRICT**

PETITIONERS/ACCUSED NO. 2 AND 5 :

- 1. NIZAM, AGED 30 YEARS,
S/O. ABDULSALIM, KATTOOR VADAKATHIL, MANAPPALLY,
PAVUMBA VILLAGE, KARUNAGAPPALLY TALUK, KOLLAM.**
- 2. NAJEEM,
S/O. MUHAMMED KUNJU, NOOR VILLA, THEKKEMURI
VALLIKUNNU, MAVELIKKARA.**

**BY ADVS.SRI.A.RAJASIMHAN
SRI.K.NIRMALAN**

RESPONDENT/STATE :

**STATE OF KERALA
THROUGH THE SUB INSPECTOR OF POLICE,
KARUNAGAPPALLY POLICE STATION, KOLLAM
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. R. REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 17-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

A.HARIPRASAD, J.

B.A No.7094 of 2015

Dated this the 17th day of November, 2015.

ORDER

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

2. Petitioners are accused Nos.2 and 5 in Crime No.1542 of 2014 of Karunagappally Police Station registered for offences punishable under Sections 143, 147, 148, 323, 324, 307 and 427 r/w Section 149 I.P.C.

3. Prosecution case, in short, is that the first accused was hostile to the defacto complainant and his brother Shihabudheen. With an intention to commit murder, the accused persons armed with deadly weapon formed themselves into an unlawful assembly on 05-05-2014 at about 9.10 p.m., and they were wielding iron rod, iron pipe etc. First accused exhorted to kill the defacto complainant and attacked him on forehead causing serious injury. The second accused attacked the defacto complainant with a G.I pipe and other accused stamped the defacto complainant.

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

5. Learned counsel for the petitioners submitted that the allegations of using weapon is primarily against the first accused. He has been taken to custody and then released on bail. According to the learned counsel, second petitioner (5th accused) has not used any weapon. Learned Public Prosecutor opposed this submission. Even in the first information statement, it is mentioned that the first petitioner (2nd accused) used G.I pipe to attack defacto complainant. Wound certificate also show certain injuries. Therefore, I am not inclined to grant pre-arrest bail to the second accused. Considering the nature of allegations, I find that bail can be granted to the 5th accused with following directions :

1. 5th accused shall surrender before the investigating officer within a period of two weeks from today and submit himself for interrogation. In that event, he shall be released on bail on executing a bond for Rs.25,000/- (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. Petitioner shall appear before the Investigating Officer as and when directed.
4. Petitioner shall not influence or intimidate witnesses.
5. If any of the above conditions is violated by the petitioner, the learned Magistrate having jurisdiction is free to cancel the bail.

Sd/-
A.HARIPRASAD,
JUDGE.

//True copy//

P A to Judge

amk