

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

Bail Appl..No. 7166 of 2015 ()

CRIME NO. 1082/2015 OF VALANCHERRY POLICE STATION, MALAPPURAM DISTRICT

PETITIONERS/ACCUSED :

- 1. SALEEM, AGED 35 YEARS
S/O.BEERAN HAJI, THARAKKAL HOUSE, IRIMBILIYAM
MALAPPURAM DISTRICT.**
- 2. ANVAR, AGED 35 YEARS
S/O.MOHAMMED, THARAKKAL HOUSE, IRIMBILIYAM
MALAPPURAM DISTRICT.**
- 3. SHAMEER, AGED 29 YEARS
S/O.BEERAN HAJI, THARAKKAL HOUSE, IRIMBILIYAM
MALAPPURAM DISTRICT.**
- 4. ABDURAHIMAN, AGED 40 YEARS
S/O.ALAVI MOULAVI, THARAKKAL HOUSE, IRIMBILIYAM
MALAPPURAM DISTRICT.**
- 5. YOUSUF, AGED 44 YEARS
S/O.KOYANNI, THARAKKAL HOUSE, IRIMBILIYAM
MALAPPURAM DISTRICT.**
- 6. ABDUL LATHEEF, AGED 55 YEARS
S/O.YOUSUF HAJI, THARAKKAL HOUSE, IRIMBILIYAM
MALAPPURAM DISTRICT.**

BY ADV. SRI.K.RAKESH

RESPONDENTS/STATE & COMPLAINANT :

1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.
2. THE SUB INSPECTOR OF POLICE
VALANCHERY POLICE STATION, MALAPPURAM DISTRICT
PIN-676 552.

***ADDL. R3 IMPEADED**

***ADDL.R3. MARAKKAR**
AGED 52, S/O.KUNJIKOYA HAJI
KALIYATH HOUSE, VANDALLOOR, IRUMBILIYAM P.O.,
MALAPPURAM DISTRICT.

***ADDL. R3 IS IMPEADED AS PER ORDER IN CRL.M.A NO. 10790/2015 DATED
25/11/2015.**

R1 & R2 BY PUBLIC PROSECUTOR SMT. R. REMA
ADDL. R3 BY ADVS. SRI.A.S.P.KURUP
SRI.SADCHITH P. KURUP

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25-11-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

A.HARIPRASAD, J.

B.A. No.7166 of 2015

Dated this the 25th day of November, 2015

ORDER

Application for bail under Section 438 of the Code of Criminal Procedure.

2. Accused in Crime No.1082 of 2015 of Valanchery Police Station registered for offences punishable under Sections 143, 147, 324, 354, 447 and 326 read with Section 149 of the Indian Penal Code are the petitioners. They seek pre-arrest bail. First petitioner is the fifth accused. Second petitioner is the sixth accused. Third petitioner is the fourth accused. Fifth petitioner is the third accused. It is not clear whether petitioners 4 and 6 are accused in the crime.

3. Prosecution case, in short, is that on 08.11.2015 at about 8.00 a.m. the accused persons as members of an unlawful assembly armed with nenchak and wooden reaper attacked the defacto complainant and his family members causing extensive injuries. One of the victim sustained fracture of humerus.

4. Heard the learned counsel for the petitioner and the defacto complainant. Learned Prosecutor is also heard.

5. Learned counsel for the petitioners submitted that on the same

day at 18.43 hours the petitioners were attacked by the other gang and the Police registered Crime No.1083 of 2015 for offences punishable under Sections 143, 147, 148, 341, 323 and 506 of the Indian Penal Code.

6. Learned counsel for the defacto complainant opposed the bail application contending that indiscriminately the household of the defacto complainant was attacked and many persons sustained injuries.

Considering the nature of allegations, I am not inclined to grant pre-arrest bail to accused 5 and 6, who are petitioners 1 and 2. Petitioners 4 and 6 are not proved to be accused in the case, no order can be passed in their favour. Accused 3 and 4, who are petitioners 5 and 3 respectively, are entitled to get pre-arrest bail with following conditions:

i. Petitioners 3 and 5 shall surrender before the investigating officer within a period of two weeks and submit themselves for interrogation. Thereafter each one of them shall execute a bond for ₹25,000/- (Rupees twentyfive thousand only) with two solvent sureties each for the like sum to the satisfaction of the investigating officer. In that event, they shall be released on bail in Crime No.1082 of 2015 of Valanchery Police Station.

ii. 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.

iii. Petitioners 3 and 5 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 petitioners 3 and 5 as if no order is passed.

A. HARIPRASAD, JUDGE.

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