

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

Bail Appl..No. 7213 of 2015

CRIME NO. 674/2015 OF NATTUKAL POLICE STATION, PALAKKAD

PETITIONERS/ACCUSED:

1. BABURAJ, AGED 42 YEARS,
S/O.GOVINDAN NAIR, KANDATH HOUSE, BHEEMANAD P O,
MANNARKKAD TALUK, PALAKKAD DISTRICT.
2. NASSAR, AGED 29 YEARS,
S/O.KUNHIVEERAN, POOCHAPPARA HOUSE, BHEEMANAD P O,
MANNARKKAD TALUK, PALAKKAD DISTRICT.
3. UDHAYAN, AGED 43 YEARS,
S/O.LATE RAMAN, PURAMPOKKIL HOUSE, BHEEMANAD P O,
MANNARKKAD TALUK, PALAKKAD DISTRICT.
4. RAFAEEK, AGED 40 YEARS,
S/O.SAIDALAVI, ACHIPARA HOUSE, BHEEMANAD P O,
MANNARKKAD TALUK, PALAKKAD DISTRICT.
5. SUKUMARAN, AGED 45 YEARS,
S/O.RAMAN (LATE), PURAMPOIL HOUSE, BHEEMANAD P O,
MANNARKKAD TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.P.JAYARAM

RESPONDENTS/COMPLAINANT:

STATE OF KERALA,
REP BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SMT.T.Y.LALIZA

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27-11-2015,
ALONG WITH BA. 7355/2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

PJ

A.HARIPRASAD, J.

B.A. Nos.7213 & 7355 of 2015

Dated this the 27th day of November, 2015

COMMON ORDER

Petitions under Section 438 of the Code of Criminal Procedure.

2. Petitioners are accused Nos.1 to 6 in Crime No.674 of 2015 of Nattukal Police Station registered for offences punishable under Sections 143, 147, 148, 323, 324, 326, 308 and 506(ii) r/w Section 149 I.P.C.

3. Prosecution case, in short, is that on 07-11-2015 at about 11.45 a.m., accused Nos.1 to 6 formed themselves into an unlawful assembly, armed with weapons and attacked the defacto complainant in connection with political rivalry during the Panchayath election. First accused used an iron rod and attacked the defacto complainant causing fracture of ribs and ulna fracture. Third accused hit the defacto complainant with a granite stone on the left side of his ribs causing injury. Other

accused persons attacked the defacto complainant with hands.

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

5. Learned counsel for the petitioners submitted that in connection with the same incident, a counter case is registered as Crime No.675/2015. According to him, this is a false case and the defacto complainant and his party are the real aggressors. Learned Public Prosecutor opposed the bail application. From the materials in the case diary, it is seen that the first accused used an iron rod and the third accused used a piece of stone to cause injury and corresponding entries could be seen from the wound certificate. Therefore, I am not inclined to grant pre-arrest bail to the first and third accused. Hence, their bail applications will stand dismissed. In so far as petitioners 2, 4 and 6 are concerned, they allegedly attacked the defacto complainant with hands. It is not clear whether the 5th petitioner

is an accused in the crime.

6. Learned Public Prosecutor submitted that the name of the fifth accused is Sukumaran. Fifth petitioner is also having the same name. However, the house name and father's name of the fifth petitioner do not match with that of the fifth accused. Therefore, in respect of fifth petitioner, no order is passed in this case as he is not proved to be an accused in the case. Considering the facts and circumstances of the case, bail can be granted to the petitioners 2, 4 and 6 with following directions :

1. Petitioners 2, 4 and 6 shall surrender before the investigating officer within a period of two weeks 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.
5. If any of the above conditions is violated by the petitioners, the learned Magistrate having jurisdiction is free to cancel the bail.

**Sd/-
A.HARIPRASAD,
JUDGE.**

amk

//True copy//

P.A to Judge