

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

MONDAY, THE 4TH DAY OF JANUARY 2016/14TH POUSHA, 1937

Bail Appl..No. 7601 of 2015 ()

CRIME NO. 640/2015 OF PAYYAVOOR POLICE STATION.

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PETITIONER/ACCUSED NOS.1, 3, 4, 5 & 7:

- 1. TENSION KANDATHINKARA, AGED 48 YEARS,
S/O. GEORGE, KANDATHINKARA HOUSE, PAISAKKARI P.O.,
PAYYAVOOR, THALIPPARAMBA TALUK, KANNUR DISTRICT.**
- 2. SHIJU PULLATTU, AGED 33 YEARS,
S/O. THOMAS, PULLATTU HOUSE, VANCHIYAM P.O.,
PAYYAVOOR, THALIPPARAMBA TALUK, KANNUR DISTRICT.**
- 3. MANOJ MUNDAKKAL, AGED 30 YEARS,
S/O. DEVASSYA, MUNDAKKAL HOUSE, PAISAKKARI P.O.,
PAYYAVOOR, THALIPPARAMBA TALUK, KANNUR DISTRICT.**
- 4. THANKACHAN VETTATHU, AGED 43 YEARS,
S/O. THOMAS, VETTATHU HOUSE, PAISAKKARI P.O.,
PAYYAVOOR, THALIPPARAMBA TALUK, KANNUR DISTRICT.**
- 5. NOBINS @ NOBLE, AGED 42 YEARS,
S/O. MATHEWS, CHERIPPURAM HOUSE, PAISAKKARI P.O.,
PAYYAVOOR, THALIPPARAMBA TALUK, KANNUR DISTRICT.**

BY ADV. SRI.M.T.SURESHKUMAR.

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 04-01-2016, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

K.P. JYOTHINDRANATH, J.

B.A. No.7601 of 2015

Dated this the 4th day of January, 2016

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 petitioners submitted before me that the petitioners are apprehending arrest in connection with crime No.640/2015 of Payyavoor Police Station, wherein the major offence alleged is under Section 326 of IPC. It is the submission that even though the allegation is that the unlawful assembly used an iron rod to inflict injury, as per the prosecution case, it is used by accused No.1. It is the submission that recovery has already been effected. It is the submission that there is nothing to show that the petitioner Nos.2 to 5 shared the common object with the first accused. Under such circumstances, incarceration is not warranted as far as petitioner Nos.1 to 5 are concerned.

3. I heard the learned Public Prosecutor.

4. The learned Public Prosecutor submitted before me that two groups of Kerala Congress fought each other that also by using dangerous weapons.

5. After hearing the submission of the learned Public Prosecutor and also considering the facts of the case, the interim bail order passed by this Court in this matter is hereby cancelled. The anticipatory bail application of the 1st petitioner (accused No.1) is hereby dismissed. In case of other petitioners (accused Nos.3, 4, 5 & 7), anticipatory bail application is hereby allowed on the following conditions:

- 1) The said petitioners No.3, 4, 5 and 7 shall appear before the Investigating Officer within ten days of this order. On such appearance, the Investigating Officer is at liberty to interrogate the said petitioners. If the police officer feels that it is a case where arrest is necessary, he is at liberty to arrest the said petitioners and after arrest, the said petitioners shall be released on bail on executing a bond for Rs.25,000/- (Rupees twenty

five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the officer concerned.

- 2) After release on bail, the above petitioners shall appear before the Investigating Officer on all Wednesdays and Saturdays in between 10 a.m. and 12 noon for a period of two months.
- 3) The petitioners shall not commit similar offences during the bail period.
- 4) The petitioners shall not influence or intimidate the witnesses.
- 5) The petitioners shall co-operate with the investigation.

In the case of the 1st petitioner (accused No.1), if he is already surrendered before the police on the strength of the interim order passed by this court on 17.12.2015, it is made clear by this order, the said interim bail granted shall stand cancelled. He shall appear before the Investigating Officer within ten days of this order. On such appearance,

if the Investigating Officer feels that he should be arrested, he is at liberty to arrest the said accused (accused No.1) and shall be immediately produced before the concerned Magistrate and a bail application if moved, it shall be considered by the learned Magistrate on merit, surely, after hearing the learned Public Prosecutor.

Sd/-
K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/