

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

Bail Appl..No. 7742 of 2015 ()

CRIME NO. 489/2015 OF KOLAVALLOR POLICE STATION, KANNUR DISTRICT

APPLICANT/ACCUSED NO.4:

**NIJEESH,
AGED 25, S/O. BALAN,
VADAKKEKARAL (H),
KALLIKKANDY P.O.**

**BY SENIOR ADVOCATE SRI.P.V.SURENDRANATH
BY ADVS.SMT.BINDUMOL JOSEPH
SRI.B.S.SYAMANTHAK**

RESPONDENT :

**STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. SEENA RAMAKRISHNAN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17-12-2015,
ALONG WITH BA NO. 7759/2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Mn

K.P. JYOTHINDRANATH, J.

B.A. Nos.7742 & 7759 of 2015

Dated this the 17th day of December, 2015

ORDER

Both these applications are filed under Section 438 of the Code of Criminal Procedure by accused Nos.3 & 4 in crime No.489/2015, of which, B.A.No.7759/2015 is filed by accused No.3 and B.A.No.7742 is filed by accused No.4 of Kolavallor Police Station, Kannur District.

2. The facts in a nutshell is as follows:

On 6.6.2015 at about 12.30 hours, a bomb blast took place in the property belonging to one Chathukutty and in the said bomb blast four persons sustained very grievous injuries and two among them succumbed to the injuries. The persons who sustained injuries and survived are the petitioners herein.

3. The case of the petitioners is that they heard a very loud sound and they went to the place of incident to save the injured and then a second blast took place and in

the second blast, the petitioners herein sustained injuries. Their case is that they went therein only to save the two deceased persons who sustained injuries. The petitioners are innocent of the accusation now levelled against them. It is the case that only because they sustained injuries, they were now made accused. It is the submission that now the crime is registered for offences under Section 304 of IPC as well as under Section 3 to 5 of the Explosive Substances Act.

4. When the petitions came up for hearing, the learned Senior Counsel Sri. V.V.Surendran submitted before me that here is a case where the petitioners sustained very serious and grievous injuries and they had undergone treatment at Baby Memorial Hospital, Calicut. Medical records are produced along with the bail application for the perusal of the court. It is also submitted that they are still in the hospital and further operations are necessary apart from the operations already undergone.

5. I heard the learned Public Prosecutor.

6. The learned Public Prosecutor vehemently opposed the bail applications stating that the offences alleged are very grave in nature and it may not be proper to grant anticipatory bail especially when interrogation is highly necessary. It is the submission that the procurement of explosive substance and other preparations regarding the same has to be collected by interrogating the petitioners.

It can be seen that the lower court opined that the injury may not be a ground for granting anticipatory bail. This court is also have the same opinion that for granting anticipatory bail, the injuries and treatment cannot be a ground. Surely, it can be a ground for grating regular bail. After perusing the case diary, which is made available before me and also considering the fact that interrogation is highly necessary in a case like this, I feel that this is not a fit case where the powers vested upon this court under Section 438 can be invoked. At the very same time it is made clear that, if the petitioners are surrendering before the Investigating Officer and co-operating with the

investigation, the fact that they sustained severe injuries and further treatment may be necessary, can be looked into by the court below when bail applications are moved.

Sd/-
K.P. JYOTHINDRANATH
JUDGE

//True copy//

P.A. TO JUDGE

shg/