IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

Bail Appl..No. 7925 of 2015 ()

CRIME NO. 1243/2015 OF ALATHUR POLICE STATION, PALAKKAD DISTRICT

PETITIONER :

NASSAR, AGED 44 YEARS,
S/O. AHAMMAD, M. K. HOUSE, KODILAPADAM,
ALATHUR, ALATHUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.BABY MATHEW

RESPONDENTS :

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

2. SUB INSPECTOR OF POLICE,
ALATHUR POLICE STATION,
PALAKKAD DISTRICT - 678 541.

***ADDL. R3 IMPLEADED :**

3. SAKKEER HUSSAIN, AGED 49 YEARS,
S/O. HANEEFA , M.K. HOUSE, VADAKKENADA,
KAVASSERY P.O., PALAKKAD DISTRICT
***ADDL. R3 IS IMPLEADED AS PER ORDER DT 22/12/2015**
IN CRL.M.A. 11596/2015.

R1 & R2 BY PUBLIC PROSECUTOR SMT. T.Y. LALIZA
R2 BY ADV. SRI.NIREESH MATHEW

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

bp

K. RAMAKRISHNAN, J.

B.A.No.7925 of 2015

Dated this the 22nd day of December, 2015

ORDER

Sole accused in Crime No.1243/2015 of Alathur Police Station has filed this application for regular bail under Section 439 of Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that on 03.11.2015 at 1 pm the accused trespassed into the compound of the shop with name M.K.Tiles run by Zakkir Hussain, the defacto complainant and threatened to kill him and with an intention to commit murder, beat him with iron rod on his head and thereby he had committed the offence punishable under Sections 447, 341, 324, 326, 307 and 506 (i) of Indian Penal Code.

3. The Counsel for the petitioner submitted that he surrendered before the Police on 27.11.2015 and he has been arrested and on production, he was remanded to custody and he is jail from that day onwards. Major portion of the investigation is over. Recovery also affected. The custody of the petitioner is not required anymore in connection with the investigation. The

defacto complainant and the petitioner are relatives as well.

4. On the other hand, the learned Public Prosecutor opposed the application on the ground that during the pendency of this crime, he had attacked the defacto complainant and another crime was registered as Crime No.1297/2015. So granting bail at this stage may affect the investigation.

5. The defacto complainant filed Crl.M.A. No.11596/2015 to get himself impleaded in the case and the application was allowed. The counsel for the defacto complainant submitted that during the pendency of the crime, he had made threat and another crime was registered. So if bail is granted, his life will be in threat. So he opposed the application.

6. It is seen from the documents produced and also the report of the Investigating Officer that the petitioner and the defacto complainant are relatives and there were a number of civil litigations also pending between them in respect of the property. It appears that it is in connection with these disputes that the crime mentioned above was also said to have been committed. When the petitioner filed an application for anticipatory bail as B.A.No.7234/2015, that petition was dismissed by this Court stating that it is not a fit case for

granting anticipatory bail by order dated 25.11.2015 and it is thereafter he surrendered before the Investigating Officer and his arrest was recorded. It is true that another crime was registered as Crime No.1297/2015 against the petitioner on the basis of the complaint given by the defacto complainant. It is also seen from Annexure-5 order of this Court that on the basis of the complaint given by the petitioner against the defacto complainant and others, another case was also registered as Crime No.1301/2015 of the same police station alleging offence under Section 448, 427, 324 and 506 (1) read with Section 34 of the Indian Penal Code. So the petitioner is in custody from 27.11.2015 onwards. Recovery has also been affected. The apprehension of the defacto complainant that if he released on bail, he is likely to threaten him can be removed by imposing some stringent conditions.

So the application is allowed with the following conditions.

1. The petitioner shall be released on bail in Crime No.1243/2015 of Alathur Police Station on his executing bond for Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties for the like sum to the satisfaction of the Judicial First Class Magistrate Court, Alathur.

2. The petitioner shall appear before the Investigating Officer on all Mondays and Saturdays between 9.00 a.m and 10.00 a.m for a period of three months and thereafter, as and when required by him for this purpose in writing to do so till the final report is filed.

3. The petitioner shall not enter the jurisdiction of Alathur Police Station except for complying with the conditions in the above crime and also in respect of any condition imposed in the other crime in which he is accused, without getting prior permission from the Judicial First Class Magistrate, Alathur till final report is filed.

4. The petitioner shall not intimidate or influence the witnesses.

5. The petitioner shall not leave State of Kerala without getting prior permission either from the Judicial First Class Magistrate, Alathur or from the Court to which, the case will be committed for trial till the disposal of the case.

6. The petitioner shall surrender his passport if any, before the Judicial First Class Magistrate,

Alathur within one week from the date of release and if he does not have any passport, file an affidavit to that effect before that court within that time.

With the above conditions, this application is allowed.

sd/-
K. RAMAKRISHNAN,
JUDGE

JV