

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

Bail Appl..No. 8850 of 2014

CRIME NO. 1798/2014 OF PATHANAPURAM POLICE STATION, PATHANAPURAM.
.....

PETITIONER(S)/ACCUSED 1 TO 3 & 5:

- 1. AAKESH.S, S/O.SURESH BABU, AGED 23 YEARS,
K.B.HOUSE, MALOOR P.O, PATHANAPURAM.**
- 2. SOORAJ, S/O.SURESH BABU, AGED 19 YEARS,
K.B.HOUSE, MALOOR P.O, PATHANAPURAM.**
- 3. ARUN .V.MOHAN, S/O.MOHAN, AGED 19 YEARS,
PANGOTTUKIZHAKKEKARA, MALOOR P.O,
PATHANAPURAM.**
- 4. VISHNU, S/O.KUTTAN PILLAI, AGED 22 YEARS,
VISHNU VILASOM, MALOOR COLLAGE P.O,
PATHANAPURAM.**

BY ADV. SRI.R.KRISHNAKUMAR (CHERTHALA)

RESPONDENT(S)/STATE & COMPLAINANT:

- 1. STATE OF KERALA,
REP.BY SUB INSPECTOR OF POLICE,
PATHANAPURAM POLICE STATION,
(CRIME NO.1798/2014) PATHANAPURAM,
KOLLAM DISTRICT,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. ANEESH, S/O.THULASEEDHARAN, AGED 33,
ANEESH BHAVAN, CHEMBARATHIMUKKU,
PATHANAPURAM, KOLLAM DISTRICT.**

R1 BY PUBLIC PROSECUTOR SRI.SREEJITH V.S.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 19-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

B.KEMAL PASHA, J.

.....
B.A. No.8850 OF 2014
.....

Dated this the 19th day of February, 2015

ORDER

Application filed under Section 438 of the Code of Criminal Procedure.

2. Petitioners are A1, A2, A4 and A3 respectively in Crime No.1798 of 2014 of the Pathanamparam Police Station, registered for the offences punishable under Sections 143, 147, 148, 341, 323, 324, 427 and 308 read with Section 308 of the Indian Penal Code.

3. The allegation against the petitioners is that on 23.11.2014 at 6.45 p.m. while the defacto complainant was standing in front of the house of his friend at Karimpaloor, the petitioners came by a jeep and they pounced upon him with weapons. A1 and A2 caught hold of the defacto

complainant and A1 beat on his head with an iron rod. A3 inflicted a cut on him with a sword. The other accused slapped and fisted him.

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

5. It is specifically alleged that the 1st accused has made use of an iron rod and the 3rd accused has made use of a sword for attacking the defacto complainant. Even though the learned counsel for the petitioners has pointed out that no injuries for attracting an offence under Section 308 IPC were inflicted, the copy of the wound certificate produced by the learned Public Prosecutor shows that the defacto complainant has sustained very serious injuries. Two lacerated wounds were there on his head. At the same time, there is no allegation that the other accused had made use of any weapons. The allegations against the 1st petitioner and the 4th accused, who are A1 and A3 respectively, are very serious. Considering the seriousness

of the allegations against the said petitioners, I am of the view that they are not entitled to the discretionary relief of anticipatory bail. Considering the facts and circumstances of the case, I am of the view that this is a fit case wherein anticipatory bail can be granted to A2 and A4, who are petitioners 2 and 3 herein.

6. In the result, this bail application is allowed in part and the investigating officer or such other police officer, who is conducting the arrest of petitioners 2 and 3, is directed to enlarge the petitioners on bail in the event of their arrest on each of them executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) Petitioners 2 and 3 shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Thursdays and Mondays commencing from 26.02.2015 for a period of three months or till the filing of the final report in this case, whichever

is earlier.

(ii) Petitioners 2 and 3 shall not tamper with the evidence or influence witnesses.

(iii) Petitioners 2 and 3 shall make themselves available for interrogation as and when required by the investigating officer.

(iv) Petitioners 2 and 3 shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

7. This bail application, as far as petitioners 1 and 4 are concerned, is dismissed. At the same time, the learned counsel for petitioners 1 and 4 seeks for an opportunity for the said petitioners to surrender before the investigating officer and to co-operate with the investigation. If so advised, petitioners 1 and 4 may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate petitioners 1 and 4, effect recovery if any, and conduct the investigation

and produce petitioners 1 and 4 without delay before the court below, where petitioners 1 and 4 can move for bail. In such case, the learned Magistrate shall pass appropriate orders, preferably on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge