

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.KEMAL PASHA

TUESDAY, THE 6TH DAY OF JANUARY, 2015/16TH POUSHA, 1936

Bail Appl..No. 9179 of 2014 (B)

(CRIME NO. 1717/2014 OF NENMARA POLICE STATION , PALAKKAD DISTRICT)

PETITIONER(S)/APPLICANTS/ACCUSED NOS. 1 & 2:

1. SUNNY JOSEPH, AGED 43 YEARS,
S/O.JOSEPH, MALAKKANDATHIL HOUSE, PEZHUMPARA,
CHATHANMANGALAM P.O., NENMARA, PALAKKAD.
2. SANTHOSH M., AGED 32 YEARS,
S/O.MANI, PALIYAMANGALAM, AYALUR P.O.,
PALAKKAD.

BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.M.REVIKRISHNAN

RESPONDENT(S)/COMPLAINANT:

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

BY PUBLIC PROSECUTOR, SMT.LALIZA T.Y.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
06-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.T.Q

St/-

B.KEMAL PASHA, J.

B.A. No.9179 of 2014

Dated this the 6th day of January, 2015

O R D E R

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Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.1 and 2 in Crime No.1717/2014 of Nenmara Police Station, Palakkad District, registered for the offences punishable under Sections 294(b), 506(1) and 353 read with Section 149 IPC.

3. The allegation against the petitioners is that, on 19.12.2014 at 9.00 a.m., they attempted to remove soil from the property of one Biju Varkey by using Tipper lorries bearing Registration Nos.KL-59 8120 and KL 49A-6640. When the same was obstructed by the defacto complainant, who is the team leader of the Special Squad formed by the District Collector, Palakkad, they abused and intimidated the defacto complainant.

4. Heard the learned Senior Counsel for the petitioners and the learned Public Prosecutor. It seems that when permits were demanded for taking the soil out of the compound by the tipper lorries, as permits were not there, they unloaded the soil in the property and attempted to take away their vehicles. The same was allegedly obstructed. For taking out the vehicles without soil, no permits are required. Matters being so, I do not think that there are necessary elements to invite an offence under Section 353 of IPC in the matter.

5. Considering the facts and circumstances of this case and the present stage of investigation, I do not think that the custodial interrogation of the petitioners is required for the continued investigation of this case. Matters being so, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioners.

6. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioners, 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) The petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Tuesdays and Fridays, commencing from 13-01-2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The petitioners shall not tamper with the evidence or influence witnesses.

(iii) The petitioners shall make themselves available for interrogation as and when required by the investigating officer.

(iv) The petitioners 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.

Sd/-

B.KEMAL PASHA,
JUDGE

//true copy//

P.S. To Judge

St/-