

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

Bail Appl..No. 9204 of 2014

CRIME NO. 668/2014 OF BALUSSERY POLICE STATION , KOZHIKODE

PETITIONER(S)/ACCUSED:

1. **SABEER, AGED 26 YEARS**
S/O.MOIDEEN KUTTY, THANCHERI HOUSE
KOPODATHAI AMSOM DESOM, KOODATHAI BAZAR POST,
THAMARASSERY TALUK, KOZHIKODE DISTRICT.
2. **MOIDEEN KUTTY, AGED 55 YEARS,**
S/O.AHAMMEDKUTTY, THANCHERI HOUSE
KOPODATHAI AMSOM DESOM, KOODATHAI BAZAR POST,
THAMARASSERY TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENT(S)/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
(CRIME NO.668/2014 OF THE BALUSERRY POLICE STATION IN
KOZHIKODE DISTRICT.)

BY PUBLIC PROSECUTOR SRI.SREEJITH V.S.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15-01-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PJ

B.KEMAL PASHA, J.

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B.A. No. 9204 of 2014

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Dated this the 15th day of January, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are A1 and A6 respectively in Crime No.668 of 2014 of the Balussery Police Station, registered for the offences punishable under Sections 143, 147, 148, 341, 323, 324 and 308 read with Section 149 IPC.

3. The allegation against the petitioners is that out of their previous enmity towards the defacto complainant, they entertained a common object to attack the defacto complainant and on 03.12.2014 at 9.50 a.m., they formed themselves into an unlawful assembly armed with deadly weapons like iron rods, came by car bearing registration No.KL-11-Q-7686 and obstructed the auto-rickshaw of the defacto complainant. It is alleged that the 1st petitioner repeatedly beat the defacto complainant with an iron rod on his head and the other accused beat him with sticks and hands.

4. Heard learned counsel for the petitioners and

learned Public Prosecutor.

5. The contents of the CD *prima facie* reveal the complicity of the petitioners. It has been reported that the 1st petitioner is involved in another case also relating to the transport of the illegally collected sand. All the specific overt acts are alleged against the 1st petitioner. It seems that the defacto complainant has sustained serious injuries and the injury on the scalp was allegedly caused by the 1st petitioner. The allegations against the 1st petitioner are very grave and serious. At the same time, no specific overt act has been alleged against the 2nd petitioner. Considering the lesser involvement of the 2nd petitioner in the crime, I am of the view that he can be granted anticipatory bail. At the same time, the 1st petitioner is not entitled to the discretionary relief of anticipatory bail.

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 the 2nd petitioner, is directed to

enlarge the 2nd petitioner on bail in the event of his arrest on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties for the like sum each to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) The 2nd petitioner shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Thursdays and Mondays commencing from 22.01.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The 2nd petitioner shall not tamper with the evidence or influence witnesses.

(iii) The 2nd petitioner shall make himself available for interrogation as and when required by the investigating officer.

(iv) The 2nd petitioner 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.

This bail application, as far as the 1st petitioner is concerned, is dismissed.

Sd/-
B.KEMAL PASHA,
JUDGE

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PA to Judge