

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

Crl.MC.No. 784 of 2015 ()

CRIME NO. 810/2014 OF KANNUR TOWN , KANNUR DISTRICT

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PETITIONERS/ACCUSED:

1. SAHADEVAN M.V., AGED 41 YEARS
S/O.NARAYANAN, MAVILA VEEDU, NAMBIAR MOTTA
KAKKAD.P.O., KANNUR DISTRICT.
(PUZHATHI GRAMA PANCHAYAT MEMBER)
2. SUDHAKARAN P.K., AGED 48 YEARS
S/O.KUNHIRAMAN, MARUTHIYODAN HOUSE, NAMBIAR MOTTA
THULICHERY, KAKKAD.P.O., KANNUR DISTRICT.
3. VINOD KUMAR P.K., AGED 40 YEARS
S/O.KUNHIRAMAN, MARUTHIYODAN HOUSE, NAMBIAR MOTTA
THULICHERY, KAKKAD.P.O., KANNUR DISTRICT.
4. HAREENDRAN M., AGED 45 YEARS
S/O.GOPALAN, MARUTHIOYAN HOUSE
PUZHATHI HOUSING COLONY, KAKKAD SWAMY MADAM
KANNUR DISTRICT.
5. SUKUMARAN P.K., AGED 54 YEARS
S/O.KUNHIRAMAN, MARUTHIYODAN HOUSE, NAMBIAR MOTTA
THULICHERY, KAKKAD.P.O., KANNUR DISTRICT.

BY ADV. SRI.P.NARAYANAN

RESPONDENT:

**STATE OF KERALA
THROUGH STATION HOUSE OFFICER
KANNUR TOWN POLICE STATION
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.**

BY Sr.PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE 1- COPY OF THE FIR IN CR.NO.810/2014 OF KANNUR TOWN POLICE STATION.

ANNEXURE 2- COPY OF THE NOTICE DATED 4.6.2014 ISSUED BY THE SECRETARY PUZHATHI GRAMA PANCHAYAT TO THE DEFACTO COMPLAINANT.

ANNEXURE 3- COPY OF THE PLAINT IN O.S.297/2014 FILED BY THE DEFACTO COMPLAINANT BEFORE THE MUNSIFF COURT, KANNUR.

ANNEXURE 4- COPY OF THE NOTICE ISSUED TO THE 1ST PETITIONER UNDER SECTION 41(A) OF CRPC DATED 6.8.2014.

RESPONDENT'S EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.784 of 2015

Dated this the 9th day of February, 2015

O R D E R

The petitioners herein are the accused in Crime No.810/2014 of the Kannur Town Police Station. The FIR in this case was registered under Sections 143,147 and 447 IPC read with 149 IPC. Subsequently, during investigation the police incorporated the offence under Section 3(1)(v) of The Scheduled Castes & The Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SC/ST Act"). The petitioners now want to surrender before the learned Magistrate having jurisdiction. On the apprehension of remand to judicial custody, they seek orders from this Court for consideration and disposal of the application for bail on the date of surrender itself. Of course, it is true that the petitioners cannot seek pre-arrest bail in view of the prohibition contained in Section 18 of the SC/ST Act. But the learned Magistrate having jurisdiction can entertain application for regular bail, and pass appropriate orders. When the

application for bail is filed, the learned Magistrate can examine the case records and see whether necessary elements of the said offence are there in the police records. The learned Magistrate must have in mind, the possibilities of misuse of the special law. When application for bail comes, appropriate judicious decision shall be taken by the learned Magistrate.

In the result, this petition is closed with direction to the court below that in case the petitioners make application for bail on surrender, the same shall be judiciously considered as indicated above, and appropriate decision on the bail shall be taken. The petitioners are given time for seven days to surrender before the learned Magistrate, and make application for bail.

Sd/-

P. UBAID, JUDGE

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