

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 5TH DAY OF MAY 2015/15TH VAISAKHA, 1937

Crl.MC.No. 2565 of 2015 ()

CRIME NO. 1247/2014 OF ADIMALY POLICE STATION, IDUKKI DISTRICT

PETITIONER(S)/ACCUSED:

- 1. JOBY THOMAS, AGED 39 YEARS, S/O.THOMAS,
CHETTUR HOUSE, NELLIMATTAM P.O.,
PIN-686 693.**
- 2. JOJO THOMAS, AGED 38 YEARS,
S/O.THOMAS, CHETTUR HOUSE, NELLIMATTAM P.O.,
PIN-686 693.**
- 3. JILSON THOMAS, AGED 36 YEARS,
S/O.THOMAS, CHETTUR HOUSE, NELLIMATTAM P.O.,
PIN-686 693.**
- 4. JIJO THOMAS, AGED 34 YEARS,
S/O.THOMAS, CHETTUR HOUSE, NELLIMATTAM P.O.,
PIN-686 693.**

**BY ADVS.SRI.C.P.SAJI
SMT.P.DEEPA MOHAN**

RESPONDENT/COMPLAINANT/STATE:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031.**

BY PUBLIC PROSECUTOR SRI.P.K.ABDUL RAHMAN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 05-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 2565 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX A1 : TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME
NO.1247/2014 DATED 30-10-2014 REGISTERED BY THE ADIMALY
POLICE STATION.**

**ANNEX A2 : TRUE COPY OF ORDER DATED 5-11-2014 IN CRL.M.C.NO.6198/2014 OF
THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM.**

**ANNEX A3 : TRUE COPY OF THE FIRST INFORMATION STATEMENT OF DEFACTO
COMPLAINANT DATED 29-10-2014.**

RESPONDENT(S)' ANNEXURES:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

P.UBAID, J.

Crl. M.C No. 2565 of 2015

Dated this the 5th day of May, 2015.

O R D E R

The petitioners herein are the four accused in Crime No. 1247 of 2014 of the Adimaly Police Station registered under Sections 341, 323, 324, 294 D, 506(i), 34 of IPC, and under Section 3(1)(iv), 3(1)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. On the apprehension of arrest and remand to judicial custody, they seek direction from this court under Section 482 Cr.P.C to the court below to consider their application for bail on surrender. Of course, the petitioners have two options. They can surrender before the Investigating Officer or even before the learned Magistrate having jurisdiction. It is true that pre-arrest bail is prohibited under Section 18 of the SC/ST Act. But on surrender, or on production by the police, application for regular bail can be considered by the learned Magistrate having jurisdiction, and appropriate orders can be passed. This is an area where there is possibility of misuse. When such an application for bail comes, the learned Magistrate will have to peruse the entire records, and see whether this is in fact a case coming under the

SC/ST Act. However, appropriate decision granting bail or disallowing bail can be taken by the learned Magistrate. In view of the apprehension, a direction can be made to the court below to consider the application for bail on the date of surrender itself.

In the result, this petition is disposed of as follows:

- a. The petitioners can surrender either before the Investigating Officer or before the learned Magistrate having jurisdiction.
- b. In case application for bail is filed by the petitioners before the learned Magistrate on surrender, or on production before the learned Magistrate on arrest, the same shall be judiciously considered and decided on merits, and appropriate decision shall be taken.
- c. Application for bail shall be decided by the learned Magistrate on the date of surrender itself.

Sd/-
P.UBAID,
JUDGE