

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 31ST DAY OF DECEMBER 2012/10TH POUSHA 1934

Bail Appl..No. 9783 of 2012 ()

(CRIME NO.1360/2012 OF THE MANJERI POLICE STATION, MALAPPURAM DISTRICT)

PETITIONER/ACCUSED NOS. 1, 2, 4 & 5:

1. MUSTAFA KAMAL, AGED 23 YEARS, S/O.ASHRAF,
MECHERI HOUSE,THURAKKAL, MANJERI, MALAPPURAM DIST
2. LUKMAN, AGED 27 YEARS,S/O.ALAVI, POTTAMMAL HOUSE,
THURAKKAL MANJERI,MALAPPURAM DIST
3. MUHAMMED ANSAS BABU, AGED 25 YEARS, S/O.MOIDEEN,
PULIYANCHALIL HOUSE, THURAKKAL MANJERI, MALAPPURAM DIST
4. SHIHABUDEEN, AGED 26 YEARS,S/O.ABOOBACKER,
THACHARATHODI HOUSE,THURAKKAL MANJERI, MALAPPURAM DIST

BY ADV. SRI.BABU S. NAIR

RESPONDENT/STATE:

1. STATE OF KERALA REP.BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31
THROUGH THE SUB INSPECTOR OF POLICE
MANJERI POLICE STATION, MALAPPURAM DIST

ADDL.R2.IMPLEADED

ADDL.R2. NIYAS, AGED 27 YEARS, S/O.K.N.MOHAMMED ASRAF,
RESIDING AT KUNNATHU NADUTHODI HOUSE, CHERANI,
KARUVAMBRAM P.O., MANJERI,
IS IMPEADED AS ADDL.R2 AS PER ORDER DATED 31.12.12
IN CRL.M.A.8530/12 IN B.A.9783/12.

R1 BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.
ADDL.R2 BY ADV. SRI.K.M.SATHYANATHA MENON

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 31-12-2012, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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P.BHAVADASAN, J.

BA No.9783 of 2012

Dated this the 31st day of December 2012

Order

The petitioners are accused in Crime No.1360/12 of Manjeri Police Station for having committed the offences punishable under Ss.143, 147, 148, 452, 341, 323, 324, 308, 326, 506(ii), 427 r/w S.149 IPC. The incident which gave rise to the case is said to have occurred on 9.10.2012. The allegation is that the petitioners trespassed into the hollow bricks shop run by the defacto complainant and caused injuries to him using deadly weapons. The defacto complainant was taken to the hospital. The further allegation is that the petitioners followed the defacto complainant to the hospital and beat him up while he was in the hospital also. The petitioners have been in custody from 26.11.2012 onwards. The learned counsel for the petitioners would submit that they have been in custody for a long period and their continued custody is unnecessary.

2. The learned Public Prosecutor opposed the application and pointed out that the first petitioner is involved in six other crimes. It is also pointed out that the second and the third petitioners are also involved in two other crimes.

3. The defacto complainant was impleaded and he was represented by Adv. Sri.K.M.Sathyanatha Menon. He too opposed the application and pointed out that due to the threat meted out to the defacto complainant by the petitioners, he was constrained to approach this court for police protection and he was able to obtain a favourable order from this court.

4. On going through the materials available in the CD, it does not appear that the incident was a stray incident. The petitioners not only attacked the complainant in the shop, but also followed him to the hospital and attacked him while in the hospital also. The defacto complainant had approached this court for police protection. Apart from the said fact, petitioners 1 to 3 have criminal antecedents also. Considering the totality of the facts and circumstances of the case, it is felt that petitioners 1 to 3 cannot be released on bail now.

Accordingly, the application stands dismissed as far as petitioners 1 to 3 are concerned. The position of the fourth petitioner is different and it is felt that his continued custody is unnecessary. Accordingly, the application is allowed as far as the fourth petitioner is concerned and the fourth petitioner shall be released on bail subject to the following conditions :

1. The fourth petitioner shall execute 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 JFCM concerned.
2. The learned Magistrate concerned shall ensure the identity of the sureties and the veracity of the tax receipts produced by the sureties, before granting bail to the fourth petitioner.
3. The fourth petitioner shall report before the Investigating Officer on every Wednesday between 9 am and 11 am, until further orders.
4. The fourth petitioner shall not tamper or attempt to tamper with the evidence and influence or try to influence the witnesses.

5. If any of the conditions is violated, the bail granted shall stand cancelled and the learned Magistrate concerned on being satisfied of the said fact, may take such action as available to him in law.

P.Bhavadasan, Judge

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