

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE R. NARAYANA PISHARADI

THURSDAY, THE 31ST DAY OF MAY 2018 / 10TH JYAISHTA, 1940

Bail Appl..No. 3465 of 2018

AGAINST THE ORDER IN CRL.MC 241/2018 of D.C.& SESSIONS COURT,THODUPUZHA
DATED 11.4.2018

CRIME NO. 165/2018 OF VELLATHOOVAL POLICE STATION, IDUKKI DISTRICT

PETITIONERS/ACCUSED NOS. 2 & 3:

- 1 SANTHOSH,
 AGED 30 YEARS, S/O. THOMAS, CHIRACKAL HOUSE, ANIYANCITY
 KARA, KONNATHADY VILLAGE.
- 2 BIJO,
 AGED 28 YEARS, S/O. BABY, VELLAYAKKUDY HOUSE, ANIYANCITY
 KARA, KONNATHADY VILLAGE.

BY ADV.SRI.NIREESH MATHEW

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, KOCHI-682031.

R BY SR. PUBLIC PROSECUTOR SRI.B.JAYASURYA

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31-05-2018,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

vpv

R.NARAYANA PISHARADI, J.
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Bail Application No.3465 of 2018
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Dated this the 31st day of May, 2018

ORDER

This is an application for anticipatory bail filed under Section 438 of the Code of Criminal Procedure.

2. The petitioners are the second and third accused in the case registered as Crime No.165/2018 of the Vellathooval Police Station under Sections 294(b), 323, 341, 452, 324, 506 and 332 read with Section 34 IPC and also under Section 3(1) of the Prevention of Damage to Public Property Act, 1984.

3. The prosecution case is that on 25.3.2018, at about 22.45 hours, the accused together attacked and voluntarily caused hurt to the defacto complainant, who was a security guard at the Ponmudi dam. It is alleged that the accused criminally trespassed into the cabin in which the defacto complainant was sitting and that the first and second accused hit him with a stone and that the third accused hit him with his hand and thereby prevented him from discharging his duties as a public servant. It is further alleged that the accused together damaged the doors and windows of the building owned by the Kerala State Electricity Board in which the cabin of the defacto complainant was located.

4. Heard the learned counsel for the petitioners and the learned Public Prosecutor. Perused the case diary.

5. The incident alleged in this case is at 22.45 hours on 25.3.2018. The petitioners have produced a copy of the First Information Report and the First Information Statement in Crime No.169/2018 of the Vellathooval Police Station. These documents show that the aforesaid case is registered against the defacto complainant under Sections 294(b), 323, 324, 326, 307 and 506 IPC on the allegation that he stabbed the first accused in Crime No.165/2018 with a knife. These documents also show that this incident took place at about 21.00 hours on 25.3.2018. Therefore, the allegations raised by the defacto complainant in this case (Crime No.165/2018) had to be viewed with some suspicion. At any rate, custodial interrogation of the petitioners appears to be not necessary to have an effective investigation of the case. It is also to be noted that the first accused in the case has already been arrested and released on bail. In these circumstances, I find that the discretion of the court can be exercised in favour of the petitioners to grant them the benefit of pre-arrest bail provided they would deposit in the court the amount of loss caused to the Government by the acts allegedly committed by them. The case diary reveals that the loss sustained to

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the Government has been ascertained as Rs.8,000/- (Rupees Eight Thousand only). Each of the petitioners shall be required to deposit this amount in the court as a condition for granting pre-arrest bail to them.

In the result, the petition is allowed and it is ordered as follows:

- i) The petitioners shall be released on bail on executing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for the like amount in the event of their arrest by the Police in Crime No.165/2018 of the Vellathooval Police Station.
- ii) The petitioners shall appear before the investigating officer between 9 am to 11 am on all Fridays for a period of three months from the date of their release on bail.
- iii) The petitioners shall deposit an amount of Rs.8,000/- (Rupees Eight Thousand only) each in the Magistrate's court/jurisdictional court concerned within three days of their release on bail. If they fail to deposit an amount in the court within this time, bail granted to them pursuant to this order shall stand cancelled without any further orders.
- iv) The petitioners shall not in any manner intimidate or influence the prosecution witnesses or tamper with the evidence in the case.
- v) The petitioners shall appear before the investigating officer as and when directed by them in writing to do so.

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vi) If the petitioners violate any of the conditions of bail, the jurisdictional court concerned is at liberty to cancel their bail without any further orders of this court but in accordance with law.

**R.NARAYANA PISHARADI
JUDGE**

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