

**SESSIONS DIVISION, KOLLAM****IN THE PRINCIPAL SESSIONS COURT**

Present: Smt. M.B. Snehalatha, Prl. Sessions Judge, Kollam  
 Saturday the 17<sup>th</sup> day of December, 2022/26<sup>th</sup> Agrahayana, 1944

**Crl. M.C. No. 2573/2022 in**  
**Crime. No. 1906/2022 of Kundara Police Station**

|             |                                                                                                                                                                                                                                        |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Petitioners | 1 Muthulal, Aged. 24 years, S/o. Murugan,<br>Lekshmi Vilasam, Kottenkara Cherry, Mekkon,<br>Kollam. (A5)<br><br>2 Erfan, Aged. 21 years, S/o. Ebrahim, Melevila<br>Veedu, Chanthanathoppu. P.O, Kollam. (A6)<br><br>By Adv. S. R Rahul |
| Respondent  | : State of Kerala represented by the SHO,<br>Kundara Police Station through the Public<br>Prosecutor, Kollam.                                                                                                                          |

This petition is filed u/s 439 of Cr. P.C having come up for consideration on 17.12.2022 on the same day the court passed the following.

**ORDER**

Petition under Section 439 Cr.P.C. seeking regular bail.

2. Petitioners are A5 and A6 in Crime No. 1906/2022 of Kundara Police Station, registered for the offences punishable under Sections 143, 147, 148, 341, 506 (ii), 324, 307 and 149 of the Indian Penal Code.

3. Prosecution case, in brief, is as follows: De-facto complainant is an activist of RSS (Rastriya Swayam Sevak Sangh). On

19.11.2022 at 10 p.m., while the de-facto complainant was returning home by his bike and when he reached at Thondirakkumukku, six persons who were travelling on two bikes, chased him and waylaid him by putting one bike across the bike of the de-facto complainant and thereafter one of the assailants exhorted as “kill him” and A1 who was the pillion rider of the said bike brandished a sword towards the de-facto complainant. When the de-facto complainant escaped in his bike, the accused chased him and when he reached near Nanthirikkal School, accused again attacked him with the sword and attempted to murder him. In the incident, the de-facto complainant sustained injuries on his right leg and right hand. Accused thereby committed the aforementioned offences.

4. Petitioners/A5 and A6 were arrested on 29.11.2022 and they are in judicial custody since then.

5. Petitioners/A5 and A6 would contend that they are innocent. The de-facto complainant is an RSS ‘Karyavahak’ who is involved in several criminal activities. Initially, the crime was registered for the offences punishable under Sections 143, 147, 148, 341, 324, 308, 506 and 149 of the Indian Penal Code. No specific overt act has been alleged against A5 and A6. Petitioners/A5 and A6 were falsely implicated in the above crime. The instant one is the second application for bail. Petitioners/A5 and A6 are ready to abide by any conditions which may be imposed by this court and they may be released on bail.

6. The learned counsel for the petitioners/A5 and A6 produced a copy of the order in bail application No. 10083/2022 dated 15.12.2022 of the Hon'ble High Court granting bail to A1 involved in the above crime.

7. The learned Public Prosecutor opposed the bail application reiterating the prosecution allegations. In the factual report filed by the investigating officer, it has been stated that if the petitioners/A5 and A6 are released on bail, they may tamper with the evidence by influencing the witnesses and there is also possibility of repeating similar offences. Moreover, the weapon used for the commission of the crime is yet to be recovered and A2 to A4 involved in the crime have to be nabbed and if the petitioners/A5 and A6 are released on bail at this stage, it will cause hindrance to the investigation.

8. Heard the learned counsel for the petitioners/A5 and A6 and the learned Public Prosecutor.

9. Perused the Case Diary made available by the prosecution and the factual report filed by the investigating officer.

10. Prima facie, there are materials revealing the involvement of the petitioners/A5 and A6 with the crime alleged. Petitioners/A5 and A6 are in judicial custody from 29.11.2022 onwards. Hon'ble High Court has granted bail to A1 as per order in Bail Appl. No. 10083/2022 dated 15.12.2022. Therefore, on principles of parity, bail is granted to the petitioners subject to conditions:

Hence, this petition for bail stands allowed on the following conditions:

- (1) Petitioners/A5 and A6 shall execute bail bonds for a sum of ₹50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.
- (2) Petitioners/A5 and A6 shall appear before the investigating officer on every Saturday between 9 a.m. and 11 a.m. until filing of final report.
- (3) Petitioners/A5 and A6 shall not attempt to interfere with the investigation or to influence any witnesses.
- (4) Petitioners/A5 and A6 shall not enter the local limits of Kundara police station for a period of one month except for the purpose of complying with the condition No.(ii) or to attend any court proceedings.
- (5) Petitioners/A5 and A6 shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the investigating officer may file an application before the jurisdictional court, for cancellation of bail.

(Dictated to the Personal Assistant, transcribed and typed by her, corrected and pronounced by me in open Court on this the 17<sup>th</sup> day of December, 2022.)

Sd/-  
M. B. Snehalatha,  
Sessions Judge.

//True Copy//

Sheristadar

Copy to:- 1. Judicial First Class Magistrate Court-I, Kollam.  
2. The SHO, Kundara Police Station.

Typed by : Vineetha. R  
Compared by : Priyas. S