

Sonet, vs State of Kerala,

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SooperKanoon Citation : sooperkanoon.com/1915210

Court : Kerala

Decided On : May-31-2019

Judge : Honourable Mr. Justice B.Sudheendra Kumar

Appeal No. : Bail Appl./3190/2019

Appellant : SONET,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR FRIDAY, THE 31ST DAY OF MAY 2019 / 10TH JYAISHTA, 1941 CRIME NO. 99/2019 OF Kooranchundu Police Station , Kozhikode PETITIONERS/ACCUSED:

1 SONET, AGED 24 YEARS, S/O. SANTHOSH, CHUMAPPANAKKAL HOUSE, KOORACHUNDU P.O, KOZHIKODE. 2 AJMAL, AGED 27 YEARS, S/O. ISMAIL, EDATHIL HOUSE, KOORACHUNDU, KOZHICODE. 3 AJMAL, AGED 27 YEARS, S/O. AZEEZ, VADAKKAYIL HOUSE, KOORACHUNDU, KOZHICODE. 4 MUNEEB, AGED 23 YEARS, S/O. KUNHUMOHAMMED, VILANHIPILAM HOUSE,

KOORACHUNDU, KOZHICODE. 5 SOORAJ, AGED 19 YEARS, S/O. SANTHOSAH, CHUMMAPUNKAL, KOORACHUNDU, KOZHICODE. BY ADV. SRI.MANSOOR.B.H.

RESPONDENT/S: 1 STATE OF KERALA, REP BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM 682 031 2 STATION HOUSE OFFICER, KOORACHUNDU POLICE STATION, KOZHICODE DISTRICT 673 024 SRI.C.S.HRITHWIK,PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.05.2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -2-

ORDER

The petitioners are accused nos. 2 to 6 in crime no. offences punishable under Sections 143, 147, 148, 341, 323, 324 and 308 read with Section 149 IPC.

2. The petitioners have filed this application under Section 438 Cr.P.C.

3. Heard.

4. The learned public prosecutor has submitted that the petitioners 2, 4 and 5 are not involved in any

other offence of similar nature. However, the 1st petitioner is involved in three other crimes and the 3rd petitioner is involved in six other crimes of grave nature. It appears that wooden reaper was the weapon used to inflict injury on the injured. The 1st and the 2nd accused used wooden reaper to inflict injury on the injured. However, petitioners 2 to 5 did not use any weapon to

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inflict any injury on the injured. Considering the facts

and circumstances of the case, I am of the view that an

order under Section 438 Cr.P.C. in favour of petitioners 2,

4 and 5 will be justified in this case. However, the 1st and the 3rd petitioners appear to be habitual offenders. Therefore, an order under Section 438 Cr.P.C. in favour of the 1st and the 3rd petitioners will not be justified. In the result, this bail application stands dismissed

as regards the 1st and the 3rd petitioners and allowed as regards the other petitioners and the respondents are directed to release petitioner Nos. 2, 4 and 5 on bail in the event of their arrest in connection with the above said crime, on condition of petitioner Nos. 2, 4 and 5 executing a bond for Rs.40,000/- (Rupees forty thousand only) each, with two solvent sureties each, each for the like sum to the satisfaction of the 2nd respondent, before whom the petitioner Nos. 2, 4 and 5 shall surrender within ten days, if not arrested in the meantime and

-4- subject to the following further conditions:-

1. The petitioner Nos. 2, 4 and 5 shall report before the Investigating Officer as and when required by the Investigating Officer for interrogation.
2. The petitioner Nos. 2, 4 and 5 shall not intimidate or influence the witnesses or in any way tamper with the investigation.
3. The petitioner Nos. 2, 4 and 5 shall not get involved in any other offence. The petitioner Nos.1 and 3 are directed to surrender

before the Investigating Officer within ten days. If petitioner Nos.1 and 3 surrender before the Investigating Officer on any day before 9.00 a.m. within ten days as directed above, the Investigating Officer shall interrogate them and thereafter produce them before the Jurisdictional Magistrate on the same day. If petitioner Nos.1 and 3 file any application for regular bail on their production before the Jurisdictional Magistrate, the learned Magistrate shall consider and dispose of the application for bail in accordance with law on the date of production itself. Sd/-

B.SUDHEENDRA KUMAR JUDGE nkr