

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

TUESDAY, THE 26<sup>TH</sup> DAY OF DECEMBER 2023 / 5TH POUSHA, 1945

BAIL APPL. NO. 11052 OF 2023

CRIME NO.822/2023 OF Elathur Police Station, Kozhikode  
AGAINST THE ORDER CMP 4231/2023 OF JUDICIAL MAGISTRATE OF  
FIRST CLASS -I, KOYILANDY

**PETITIONERS:**

- 1 PRAJEESH P  
AGED 38 YEARS  
SON OF RAGHAVAN,  
RESIDING AT KELANGOTT VEEDU, KUNNAMANGALAM P.O.,  
KOZHIKODE DISTRICT, PIN - 673571
- 2 SARATH CHANDRAN M  
AGED 38 YEARS  
SON OF RAMACHANDRAN V.K,  
SARATH NIVAS, MANGATTIDAM P.O., KOOOTHUPARAMBA,  
KANNUR DISTRICT, PIN - 670643
- 3 JISHNU P  
AGED 22 YEARS  
S/O.MANOJ P,  
KRISHNAKRIPA VEEDU, MADACHAL VAYAL,  
PAVANGAD, PUTHIYANDI P.O.,  
KOZHIKODE DISTRICT, PIN - 673021

BY ADVS.  
T.MADHU  
RENJISH S. MENON  
S.R.SARADAMANI  
VRINDA T.S.

**RESPONDENT:**

STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF  
KERALA, PIN - 682031

SMT. REKHA. S, SR. PUBLIC PROSECUTOR

**THIS BAIL APPLICATION HAVING COME UP FOR  
ADMISSION ON 26.12.2023, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:**

**P.G. AJITHKUMAR, J.**

**B.A.No. 11052 of 2023**

**Dated this the 26<sup>th</sup> day of December, 2023**

**O R D E R**

This is an application for bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. The petitioners the accused Nos. 1 to 3 in Crime No. 822 of 2023 of Elathur Police Station. They allegedly had committed the offences punishable under Sections 323, 324 and 326 read with Section 34 of the IPC.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. The prosecution allegations are as follows:

5. The de-facto complainant and his friend were repairing a Scooter near Meitra Hospital. The petitioners have previous enmity towards the de-facto complainant. Out of that enmity, the petitioners approached the de-facto complainant with an iron rod. The petitioners beat the de-facto complainant using the iron rod at his head and face. He sustained injuries including a fracture. Thereby the

petitioners committed the above mentioned offences.

6. The petitioners would contend that they did not involve in the alleged crime and without any material or evidence, they have been implicated in the crime. They are innocent. The investigation in the matter has been progressed considerably and there is no reason or justification for their further detention.

7. The learned Public Prosecutor would submit that considering the seriousness of the offence and the possibility of interfering with the investigation by the petitioners in the event of their release on bail, this petition deserve only to be dismissed.

8. The Sub inspector of Police, Elathur Police Station has made available for my perusal a report, through the learned Public Prosecutor, objecting the grant of bail to the petitioners.

9. The main reason to oppose grant of bail to the petitioners is that in the event of their release on bail, they will influence and threaten the witnesses, and also try to tamper with the evidences. The possibility for their involving in similar activities cannot be ruled out as well. It is also

stated that petitioners may abscond if they are freed.

10. The petitioners were arrested on 30.11.2022. This Court as per Order dated 21.11.2023 in Bail. Appln. No. 9472 of 2023 directed the petitioners to surrender before the Investigating Officer. In terms of the said order, they have surrendered on 31.11.2023 and ever since they have been in the judicial custody. From the report of the Sub Inspector of Police, Elathur Police Station it is seen that the investigation has progressed to a considerable extent. The apprehension of the Investigating Officer which is highlighted by the learned Public Prosecutor can be alleviated by imposing strict conditions. In the circumstances, I am of the view that the petitioners can be released on bail subject to strict conditions.

In the result, the bail application is allowed and the petitioners are granted bail on their executing bonds for Rs.50,000/- (Rupees fifty thousand only), with two solvent sureties for the like amount each, to the satisfaction of the learned Magistrate, subject to the following conditions:

- (i) They shall not influence or intimidate witnesses or tamper with evidence;

(ii) They shall appear before the investigating officer as and when called for;

(iii) During the bail period, they shall not get involved in any offence.

(iv) Petitioners shall surrender their passports before the Magistrate and if, they have no passports, they have to submit affidavits to that effect.

In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court.

**Sd/-**

**P.G. AJITHKUMAR, JUDGE**

Svn

**APPENDIX OF BAIL APPL. 11052/2023**

PETITIONER ANNEXURES

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| Annexure A1 | THE TRUE COPY OF THE ORDER DATED<br>21/11/2023 IN BAIL APPLICATION<br>NO.9472/2023 ON THE FILES OF THIS<br>HONORABLE COURT                               |
| Annexure A2 | THE TRUE COPY OF THE ORDER DATED<br>1/12/2023 IN CMP NO.4122/2023 ON THE<br>FILES OF THE LEARNED JUDICIAL FIRST<br>CLASS MAGISTRATE'S COURT; KOYILANDY   |
| Annexure A3 | THE TRUE COPY OF THE ORDER DATED<br>6/12/2023 IN C.M.P.NO.4231/2023 ON THE<br>FILES OF THE LEARNED JUDICIAL FIRST<br>CLASS MAGISTRATE'S COURT; KOYILANDY |