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'CR'

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 6TH DAY OF MARCH 2025 / 15TH PHALGUNA, 1946

BAIL APPL. NO. 619 OF 2025

CRIME NO.2097/2024 OF CRIME BRANCH, THIRUVANANTHAPURAM,

Thiruvananthapuram

AGAINST THE ORDER/JUDGMENT DATED IN CRMC NO.2320 OF
2024 OF DISTRICT COURT & SESSIONS COURT, KOZHIKODE

PETITIONER/S:

SHUHAIB
AGED 24 YEARS
S/O USAIMATH CHOLAYIL HOUSE P O KODUVALLY
KOZHIKODE, PIN - 673572

BY ADVS.
S.RAJEEV
V.VINAY
M.MUHAMMED FIRDOUSE
M.S.ANEER
SARATH K.P.
ANILKUMAR C.R.
K.S.KIRAN KRISHNAN
DIPA V.

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RESPONDENT/S:

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

- 2 STATION HOUSE OFFICER
 CRIME BRANCH POLICE STATION, THIRUVANANTHAPURAM-,
 PIN - 695008

SRI.NOUSHAD KA, SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
06.03.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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'CR'**P.V.KUNHIKRISHNAN, J****B.A. No. 619 of 2025****Dated this the 6th day of March, 2025****ORDER**

Examinations are like puzzles. Sometimes, you get stuck, but with persistence and patience, you can figure it out. Examinations are also a nostalgic remembrance of school and college days. Preparing for an examination, going to the examination hall with excitement, enthusiasm and ofcourse with some stress, waiting for the question paper in the examination hall till the bell rings and getting the question papers and after reading it, when there are questions which can be easily answered, the goosebumps of

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happiness coming etc are the good memories of everyone.

2. Therefore, the conduct of examinations should be fair and transparent. The sanctity of examination refers to the importance of maintaining the integrity, fairness and authenticity of the examination process. It involves upholding the highest standards of honesty, transparency and accountability to ensure that examinations are conducted in a manner that is trustworthy, reliable and valid. If there is any leakage of question papers to the benefit of any section of students, it is nothing but cheating of the other section of the students who worked hard day and night preparing for the examination. Leakage of a question paper can have a significant effect on the examination process, candidates and the education department conducting the examination. It will lead to the loss of credibility to the Education Department, anxiety and stress to the student community and unfair advantage to candidates who have

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access to the leaked question papers. Leakage of question papers is a clear case of cheating against the student community who studied well and came to the examination hall to write their examinations with a 'finger cross'. Therefore, the sanctity of examination is to be maintained in the education system.

3. The allegation in this case is that there was leakage of the question paper. The Commissioner of Examinations and Director of General Education Department wrote a letter to the Crime Branch Headquarters alleging that the questions in the question papers of the Second Terminal Examination of 2023 and of the First and Second Terminal examination in 2024 were released in the YouTube channel of 'MS Solutions' owned by a person named Shuhaib, a native of Koduvally, hours before the start of the examination under the name 'question prediction'. It is further stated that these questions were predicted by the

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said person, who is a Chemistry Teacher, by leaking the question paper. Videos of questions being released in this way before the examination of all subjects are seen on this channel, and all these questions appeared in the examination is the complaint. Hence, the authority demanded an investigation into this matter. As per the direction of the State Police Chief, a preliminary inquiry was conducted by a special team headed by the Dy.S.P. Crime Branch under the direct supervision of Superintendent of Police, Crime Branch, Kozhikode and Wayanad. In the preliminary report, it was recommended to register a case in the State Crime Branch Unit.

4. Accordingly, the Additional Director General of Police, Crime Branch Headquarters, Thiruvananthapuram, granted permission to register a crime in the Crime Branch Police Station and entrusted the investigation of the case to the Dy. S.P. II, Crime Branch, Kozhikode Unit. Accordingly,

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Crime No.2097/2024 was registered by the Crime Branch Police Station alleging offences punishable under Sections 316(2), 316(3), 316(5), 318(2), 318(4), 61(2)(a) and 3(5) of the Bharatiya Nyaya Sanhita (BNS),2023. The petitioner herein is arrayed as 1st accused in the above case. The petitioner apprehends arrest. Hence, this Bail Application is filed.

5. Heard Adv. Sri. S. Rajeev, who appeared for the petitioner and also Adv. Sri. Noushad K.A., Senior Public Prosecutor who appeared for the State.

6. The counsel for the petitioner argued the matter in detail. Adv. Rajeev submitted that this is a false case foisted against the petitioner based on some media news. The first and foremost contention raised by the counsel is that the petitioner is not getting an opportunity to explain his case before an authority, and the Police are trying to arrest the petitioner even without understanding the case put forward

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by the petitioner. The main contention of the petitioner is that he predicted the questions based on the question papers of previous years. According to the petitioner, all the questions in the question papers, which, according to the prosecution, were leaked, had also appeared in the previous examinations. The petitioner only predicted some of the questions. It is the case of the petitioner that he has reliable materials to explain how he selected the questions for the purpose of prediction. It is submitted that he does not have an opportunity to explain these things to the Investigating agency as they will arrest the petitioner even before ascertaining the truth. It is also the case of the petitioner that there are several allegations regarding the leakage of question papers, and allegations are levelled against the Tuition Center lobby and office of the Education Department. To divert the attention from such allegations, the petitioner was made a scapegoat is the submission. The counsel

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submitted that the petitioner has more than 8 years of experience in the field. According to the petitioner, the teachers and coaching centers normally publish probable questions as predictions for the purpose of attracting students. The petitioner is also conducting an online coaching class for students appearing for public examination. It is submitted that, from his experience and based on the previous year's question papers, the petitioner suggested probable questions which may come for examination. It is the definite case of the petitioner that he has got a very good reason for selecting those questions. It is also submitted by the counsel for the petitioner that all institutions and those who maintain YouTube channels used to publish probable questions and the institutions like Xylem, Eduport, Exam winner, etc, also published similar questions through YouTube channels as prediction, and these questions came for the next examination. It is the case of the

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petitioner that, based on research conducted by him, most of the questions are repetitions, and based on this analysis, the petitioner prepared several questions and uploaded the same. Hence, it is submitted that the petitioner is ready to cooperate with the investigation, and he may be granted bail, invoking the powers under Section 482 of BNSS.

7. Senior Public Prosecutor, Adv. Noushad seriously opposed the bail application. The Senior Public Prosecutor took me through the manuscript of the video published by the petitioner before the examination. The Public Prosecutor submitted that the predictions of the petitioner are not mere predictions, but it is done after collecting the questions from the public servants. The Public Prosecutor submitted that it is a clear case of leakage of the question paper. The Public Prosecutor took me through the video and submitted that a detailed investigation is necessary, for which the custodial interrogation of the petitioner is also necessary.

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8. This Court considered the contention of the petitioner and the Public Prosecutor. The main argument of the petitioner is that he is not getting an opportunity to explain his stand before the Investigating Officer. According to the petitioner, the Investigating Officer wants to arrest the petitioner because there is hue and cry from the media. The counsel for the petitioner submitted that the petitioner is ready to surrender before the Investigating Officer to explain his stand. After hearing the counsel for the petitioner and the Public Prosecutor in length on 20.02.2025, this Court passed the following order.

"Petitioner will appear before the Investigating Officer in Crime No.2097/2024 on 22.02.2025. The Investigating Officer will record the statement of the petitioner and will submit a report before this Court on 25.02.2025.

Post on 25.02.2025.

The petitioner shall not be arrested till then. But, I make it clear that, I have not considered the matter on merit and this order is only based on the submission of the petitioner that he wants to explain the cases to the Investigating Officer."

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9. Based on the above order, the petitioner appeared before the Investigating Officer, and his statement was recorded. But the Public Prosecutor submitted that the custodial interrogation of the petitioner is necessary to complete the investigation.

10. Therefore, this Court considered the contentions of the petitioner in detail. This Court asked the Public Prosecutor to produce the case diary. The Public Prosecutor made available the case diary. This Court perused the same also. A perusal of the case diary would show that the petitioner is arrayed as the 1st accused in the above case . The Investigating Officer recorded the statements of several teachers and academicians. Almost all teachers who were questioned by the Investigating Officer have a unanimous opinion that unless actual question papers were not seen, the way in which the petitioner predicted the

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question paper in the online forum is not possible.

11. This Court perused the English question paper for the 10th standard in the first terminal examination. Question Nos.18 to 26 were predicted by the petitioner and circulated in his YouTube channel in the same order as in the question paper, that is important. The questions were revealed in the video in the same order in which the questions came in the examination. The experts in this field gave statements to the Investigating Officer that, unless the real question papers were seen, such a prediction is impossible. This Court has no expertise in such matters. The academicians and teachers gave statements to the effect that, without leakage of the question paper, it is not possible to give predictions as done by the petitioner through his YouTube channel. There is nothing to disbelieve such a statement given by the academicians and teachers.

12. The counsel for the petitioner made available a

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pen drive containing the video published by the petitioner and also the disputed question papers. The counsel for the petitioner also made available the textbooks from which the questions were selected. The counsel for the petitioner also produced the previous year's question papers to prove that all the questions mentioned in the disputed question papers were also asked in the previous years. But, the prosecution case is that the order in which the questions were mentioned in the question paper would show that it is not possible without leakage of the question papers. This version of the prosecution is corroborated by the statement given by the teachers and academicians in this field.

13. As I mentioned earlier, this Court has no expertise to decide whether there is any leakage of question paper. Moreover, the investigation of the case is going on. Now, only the petitioner and two others were implicated as accused. The statement given by the co-accused is also produced, which I do not

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want to mention in a bail order. If at all, there is any leakage of questions, the source of leakage is to be found out. For that purpose, the investigating officer wants to question the petitioner in custody. Even though this Court gave an opportunity to the petitioner to explain the same to the investigating officer, the investigating officer was not satisfied with the explanation given by the petitioner. In such circumstances, this Court cannot contradict the statement given by the teachers and experts in this field, especially while considering a bail application. According to the prosecution, a detailed investigation is necessary, for which custodial interrogation of the petitioner is necessary. I am not in a position to say at this stage that the petitioner has not committed the offence, and the custodial interrogation of the petitioner is not necessary. The Sessions Judge, while dismissing the bail application, considered the

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contentions of the petitioner in detail. According to me, such a detailed discussion is not necessary for deciding the bail application. Even after the interrogation of the petitioner based on the order passed by this Court on 20.02.2025, the prosecution submits that the custodial interrogation of the petitioner is necessary, and this Court cannot deny the same. Let the investigation continue in accordance with law. The petitioner has to surrender before the investigating officer and cooperate with the investigation. I am of the considered opinion that this is not a fit case, in which this Court should exercise the extraordinary jurisdiction under Sec. 482 of the BNSS. The prosecution made out a prima facie case for custodial interrogation. In such circumstances, if this court invokes extraordinary jurisdiction of anticipatory bail in favour of the petitioner, it will give a wrong message to the society. Let the students study well and appear for the examination, and let them enjoy the goosebumps of

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happiness in the examination hall, when they see the question papers, instead of seeing the leaked question papers before the examination by cheating others.

There is no merit in this bail application, and accordingly, the bail application is dismissed.

sd/-

**P.V.KUNHIKRISHNAN
JUDGE**

nvj/SKS