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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 3RD DAY OF FEBRUARY 2025 / 14TH MAGHA, 1946

BAIL APPL. NO. 778 OF 2025

CRIME NO.41/2025 OF CANTONMENT POLICE STATION,

THIRUVANANTHAPURAM

PETITIONER/ACCUSED NOS.1 AND 2:

- 1 ARUN KUMAR K
AGED 46 YEARS, CONSULTING EDITOR,
REPORTER BROADCASTING COMPANY PVT LTD,
REPORTER STUDIO COMPLEX, HMT COLONY,
NORTH KALAMASSERY, ERNAKULAM, S/O
K.KOCHUKRISHNA PILLAI, KALANGUMKARA (H),
MARTHANDUMKARA P.O,
YEROOR, ANCHAL, KOLLAM, PIN - 691 312.
- 2 SHABAS AHAMMED S
AGED 24 YEARS, SUB EDITOR-DIGITAL, REPORTER
BROADCASTING COMPANY PVT LTD, REPORTER STUDIO
COMPLEX, HMT COLONY, NORTH KALAMASSERY,
ERNAKULAM, S/O SHAMSUDHEEN, ATHIKKAL (H),
MANNUR P.O, PALAKKAD,
PIN - 678 642.

BY ADVS.

P.K.VARGHESE

M.T.SAMEER

DHANESH V.MADHAVAN

JERRY MATHEW

REGHU SREEDHARAN

DEVIKA K.R.

P.VIJAYA BHANU (SR.)(K/421/1984)



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RESPONDENTS/COMPLAINANT:

**1 STATE OF KERALA
 REPRESENTED BY PUBLIC PROSECUTOR,
 HIGH COURT OF KERALA, PIN - 682 031.**

**BY ADV
P NARAYANAN, SPECIAL GOVERNMENT PLEADER**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 03.02.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



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P.V.KUNHIKRISHNAN, J

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Dated this the 3rd day of February 2025

O R D E R

This Bail Application is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita.

2. Petitioners are the accused in Crime No.41 of 2025 of Cantonment Police Station, Thiruvananthapuram. The above case is registered against the petitioners alleging offences punishable under Sections 11(i) and 12 of the Protection of Children from Sexual Offences Act (for short 'POCSO Act') and Section 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS').

3. The 1st petitioner is the consulting editor and the 2nd petitioner is the sub editor-digital of a malayalam news channel known by the name as



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‘Reporter’.

4. The prosecution case is that on 06.01.2025 during the television coverage of Kerala State School Youth Festival, which was held in Thiruvananthapuram, the Reporter Channel aired a teleskit portraying the participants of the Oppana competition, wherein the 2nd petitioner acted as a spectator, who was having a conversation with one of the teammates, who was dressed up as the ‘Manavatti’ of the Oppana Team. It is also stated that the specific allegation against the 1st petitioner is that on 08.01.2025, he was having a conversation with other reporters in the news programme and he made remarks about the ‘Manavatti’ and the reporter, who was portrayed as a spectator. He said that it was better for two of them to not see each other again.

4. Heard counsel for the petitioners and the Public Prosecutor.



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5. Adv.R.Krishnaraj filed an impleading petition stating that he also filed a complaint for the same set of facts.

6. Public Prosecutor submitted that no crime is registered based on the complaint filed by the client of Adv.Krishnaraj.

7. This Court asked Adv.Krishnaraj about his authority to implead in a bail application filed by an accused as a third person. The counsel submitted that he wants to submit the facts before this Court. I am of the prima facie opinion that, a third person has no right to implead in a bail application. But, even then this Court heard Adv. Krishnaraj in detail.

8. Public Prosecutor submitted that there is no intention to arrest the petitioners. Therefore, Section 35(3) of BNSS notice alone is issued.

9. If that is the case, there is no apprehension of arrest to the petitioners. Section 35(3) of



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BNSS says that the police officer shall, in all cases where the arrest of a person is not required under sub-section (1) issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice. The Senior Counsel Adv.Vijayabhanu, appearing for the petitioner takes me through Section 35(5) of BNSS. It says that where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested. Hence it is submitted that, there is apprehension of arrest.

10. Adv.Krishna Raj takes me through the conversation between the petitioners and also with the



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victim. I am of the prima facie opinion that these conversation may not amounts to any criminal offence. But, may be inappropriate questions, which ought to have been avoided by the petitioners, especially when they are senior reporters of a channel. But, considering the facts and circumstances of the case, I think the bail can be granted to the petitioners. I make it clear that the observations in this order is only for the purpose of considering this bail application and investigating officer is free to investigate the matter untrammelled by any observations in this order.

11. Moreover, it is a well accepted principle that the bail is the rule and the jail is the exception. The Hon'ble Supreme Court in **Chidambaram. P v Directorate of Enforcement [2019 (16) SCALE 870]**, after considering all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the



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exception so as to ensure that the accused has the opportunity of securing fair trial.

12. Recently the Apex Court in **Siddharth v State of Uttar Pradesh and Another [2021(5)KHC 353]** considered the point in detail. The relevant paragraph of the above judgment is extracted hereunder.

“12. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. (Joginder Kumar v. State of UP and Others (1994 KHC 189: (1994) 4 SCC 260: 1994 (1) KLT 919: 1994 (2) KLJ



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97: AIR 1994 SC 1349: 1994 CriLJ 1981)) If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused.”

13. In **Manish Sisodia v. Central Bureau of Investigation [2023 KHC 6961]**, the Apex Court observed that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case.

Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, this Bail Application is allowed with the following directions:



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1. The petitioners shall appear before the Investigating Officer within two weeks from today and shall undergo interrogation.

2. After interrogation, if the Investigating Officer propose to arrest the petitioners, they shall be released on bail on executing a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the arresting officer concerned.

3. The petitioners shall appear before the Investigating Officer for interrogation as and when required. The petitioners shall co-operate with the investigation and shall not, directly or



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indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer.

4. Petitioners shall not leave India without permission of the jurisdictional Court.

5. Petitioners shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.

6. Needless to mention, it would be well within the powers of the investigating officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the



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petitioners even while the petitioners are on bail as laid down by the Hon'ble Supreme Court in ***Sushila Aggarwal v. State (NCT of Delhi) and another*** [2020 (1) KHC 663].

7. If any of the above conditions are violated by the petitioners, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court. The prosecution and the victim are at liberty to approach the jurisdictional Court to cancel the bail, if any of the above conditions are violated.

Sd/-

P.V.KUNHIKRISHNAN

JUDGE

AMR