



2025:KER:37064

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 28TH DAY OF MAY 2025/7TH JYAISHTA, 1947

BAIL APPL. NO. 6655 OF 2025

CRIME NO.1289/2025 OF KOTTARAKKARA POLICE STATION, KOLLAM.

PETITIONER:

**AKHIL RAJ,
AGED 36 YEARS,
S/O RAJENDRAN PILLAI R, AKHIL NIVAS,
KOTTATHALA P.O, KOTTARAKKARA,
KOLLAM, PIN - 691 566.**

**BY ADVS.
BIMALA BABY
JASMINE LIGY
MAGI PAVITHRAN
ROSHAN SHAJI**

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA ERNAKULAM,
PIN - 682 031.**
- 2 THE STATION HOUSE OFFICER,
KOTTARAKKARA POLICE STATION, KOTTARAKKARA P.O,
KOLLAM, PIN - 691 506.**

SMT. SREEJA V

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
28.05.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



BECHU KURIAN THOMAS, J.

Bail Appl. No.6655 of 2025

Dated this the 28th day of May, 2025

ORDER

This bail application is filed under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS').

2. Petitioner is the accused in Crime No.1289 of 2025 of Kottarakkara Police Station, Kollam registered for the offences punishable under sections 152 of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS').

3. The prosecution case is that on 11.05.2025, the accused posted a video through his facebook account with intent to endanger the sovereignty, unity and integrity of India by stating that none who are involved in the terrorist attack at Pahalgam have been caught and India gave weapons to Balochistan and created tension at Pakistan and thereby cheated the natives of Balochistan and when India counter attacked, innocents in Pakistan were killed. It was also allegedly stated that Pakistan is not afraid of India and the country has surrendered its self-respect and the Administrators and the Military are existing without any self respect. The said post is alleged as an act endangering the sovereignty and integrity of India punishable under Section 152 of



the BNS, 2023.

4. Smt. Bimala Baby, the learned counsel for the petitioner contended that the entire prosecution allegations are false, and that a facebook post has been misinterpreted by the de facto complainant with an ulterior purpose. According to the petitioner, his facebook post does not contain any statement that excites or attempts to excite, secession, armed rebellion or any subversive activity, nor does it encourage feelings of separatist activities or even endanger the sovereignty or unity and integrity of the country. It was further submitted that, except for commenting upon certain individual leaders of the country like the Prime Minister, there is nothing that goes against the sovereignty and integrity of the country, and he is being targeted with ulterior motives and for malafide purposes. It was also submitted that the petitioner is willing to participate in any investigation and will co-operate with the same.

5. Smt.Sreeja V, the learned Public Prosecutor, on the other hand, submitted that the matter is under investigation and the petitioner ought to be subjected to custodial interrogation and the mobile phone used for uploading the post is required to be retrieved and verified. It was also submitted that the bail application ought to be dismissed.

6. I have considered the rival submissions.



7. Petitioner as a citizen of India has the right to freedom of speech and expression. His freedom to express his views can be curtailed only by reasonable restrictions as provided under Article 19(2). The expression of views in a social media post, in the absence of any specific call for armed rebellion or secession or other subversive activities or encourages such feelings cannot by itself, prima facie be regarded as incitement for such an armed rebellion or as a subversive activity. In fact Petitioner claims to have immediately deleted that too, within an hour of publication of the facebook video as it was being misinterpreted.

8. Section 152 of BNS deals with acts endangering sovereignty, unity and integrity of India. The offence contemplated by the provision consists in the intention. A legitimate dissent or criticism of the government cannot be termed as an act endangering the sovereignty or unity or integrity of the country. The provision has to be interpreted in the light of the freedom guaranteed under Article 19(1)(a) of the Constitution of India. The purpose of section 152 of BNS is to act as a shield for the sovereignty of the country and not a sword against dissent to governmental actions. Mere use of strong words to express disapprobation of governmental measures cannot attract the vice of section 152 of BNS, unless it excites people to resort to secession or armed rebellion or subversive activities or even violence. Reference to the decision in **Kedar Nath Singh v. State of Bihar [AIR 1962 SC**



955] is relevant in this context.

9. Though the above principles do have a bearing and prima facie this Court cannot find any statement in the alleged facebook post that could be regarded as an act endangering the sovereignty or unity or integrity of the country, still, as the the actual post that was uploaded has not been extracted in the FIR as contended by the petitioner and since the matter is under investigation, it is not proper for this Court to enter into a finding at this juncture. However, considering the nature of allegations in the FIR, I am of the view that this is a fit case to protect the petitioner with an order of anticipatory bail, provided he co-operates with the investigation and appears for interrogation on a date to be fixed.

10. Accordingly, this application is allowed on the the following conditions:

(a) Petitioner shall appear for interrogation before the Investigating Officer on 10.06.2025 at 10.00 am., and subject himself to interrogation and also surrender his mobile phone to the Investigating Officer. Thereafter, if in the event of the petitioner being arrested, he will be released on bail.

(b) If after interrogation, the Investigating Officer proposes to arrest the petitioner, then, he shall be released on bail on him executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum before the Investigating Officer.

(c) Petitioner shall appear before the Investigating Officer as and when required and shall also co-operate with the investigation.



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(d) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he tamper with the evidence or contact the victim or her family members;

(e) Petitioner shall not commit any similar offences while he is on bail.

(f) Petitioner shall not leave India without the permission of the Court having jurisdiction.

In case of violation of any of the above conditions or if any modification or deletion of the conditions are required, the jurisdictional Court shall be empowered to consider such applications, if any, and pass appropriate orders in accordance with law, notwithstanding the bail having been granted by this Court.

Sd/-

BECHU KURIAN THOMAS
JUDGE

ADS



APPENDIX OF BAIL APPL. 6655/2025

PETITIONER ANNEXURES

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| Annexure A1 | A TRUE COPY OF FIR NO. 1289/2025 OF KOTTARAKKARA POLICE STATION, KOLLAM RURAL DATED 13.05.2025. |
| Annexure A2 | A TRUE COPY OF THE SCREENSHOTS OF FACEBOOK POSTS BY THE PETITIONER REGARDING OPERATION SINDOOR AND AGAINST THE RELIGIOUS EXTREMISTS AND TERRORIST. |
| Annexure 3 | A TRUE DECODED SPEECH OF THE PETITIONER IN HIS FACEBOOK LIVE VIDEO ON 11.05.2025 WHICH WAS BASIS OF THE PROSECUTION CASE. |