IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

THURSDAY, THE 10TH DAY OF JULY 2025 / 19TH ASHADHA, 1947

BAIL APPL. NO. 6918 OF 2025

CRIME NO.9/2025 OF VACB, ERNAKULAM, ERNAKULAM

PETITIONER/ACCUSED NO.1:

SHEKHAR KUMAR,
AGED 37 YEARS
S/O SHANKAR PRASAD SAH,COMMUNICATION ADDRESS- DIRECTORATE OF ENFORCEMENT, KANOOS CASTLE, AK SESHADRI ROAD, SHENOYS, KOCHI, PIN- 682011.
PERMANENT ADDRESS- NC CHATTERJEE ROAD, MUNDICHAK, BHAGALPUR, BIHAR, PIN-812001.

BY ADVS.
SRI.P.VIJAYA BHANU (SR.)
SHRI.K.ARAVIND MENON
SRI.P.M.RAFIQ
SRI.M.REVIKRISHNAN
SRI.AJEESH K.SASI
SRUTHY N. BHAT
SRI.RAHUL SUNIL
SMT.SRUTHY K.K
SMT.NANDITHA S.
SHRI.SOHAIL AHAMMED HARRIS P.P.
SHRI.AARON ZACHARIAS BENNY

RESPONDENT/COMPLAINANT

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

2 M.R. AJAYAN,
EDITOR, GREEN KERALA NEWS, THEKKETHALAKKAL HOUSE, CHERIYAPALLAMTHURUTHU, NORTH PARAVOOR P.O.,
(THE PETITIONER IN CRL.M.A.NO.1/2025)

BY ADVS.
PUBLIC PROSECUTOR
DIRECTOR GENERAL OF PROSECUTION
P.NARAYANAN, SPL. G.P. TO DGP AND ADDL. P.P.

SHRI.SAJJU.S., SENIOR G.P.
DGP SHAJI T.A FOR VACB, SPL PP TO DGP P.NARAYANAN FOR VACB, SR PP SAIJU.S
SRI.K.P.PRASANTH (FOR THE PETITIONER IN CRL.M.A.NO.1/2025)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 03.07.2025, THE COURT ON 10.07.2025 DELIVERED THE FOLLOWING:

ORDER

Dated this the 10th day of July, 2025

This is a petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking pre-arrest bail and the petitioner is the 1st accused in Crime No.V.C. 09/2025/EKM of VACB, Ernakulam, where the prosecution alleges commission of offences punishable under Section 7(a) of the Prevention of Corruption Amendment Act, 2018 and under Section 61(2) of the Bharatiya Nyaya Sanhita, 2023, by the accused.

2. Heard the learned senior counsel for the petitioner as well as the learned Director General of Prosecution (DGP), appearing for VACB, in detail. Also heard the learned counsel appearing for the petitioner in Crl.M.A. No.1 of 2025, who sought impleadment in this petition, on urging that he had filed representations before the Director of Central Bureau of Investigation and the Superintendent of Police, Central Bureau of Investigation, Anti Corruption Bureau, to conduct enquiry and register case against Enforcement Directorate

Officials in Cochin Zonal Office, alleging corruption and malpractices in the ED Office, Cochin. Perused the relevant materials available.

3. The prosecution case as could be gathered from paragraph Nos.2 and 3 of the statement of facts filed by the Deputy Superintendent of Police-I, Vigilance and Anti-Corruption Bureau, Central Range, Ernakulam, are extracted hereunder:

> *2. The above case was registered as VC 09/2025/EKM on 14.05.2025 at 18:00 hours U/s 7(a) of the Prevention of Corruption Act, 1988 (Amendment Act 2018) and U/s 61 (2) of BNS, with the applicant as Accused 1, on the basis of a complaint received from Sri Aneesh Babu, S/o Babu George, residing at H. No. 6/150, Vazhavila Veedu, Ambalakkara P.O., Kottarakkara on the allegation that the Applicant/Accused has demanded Rs the allegation that the 2 Crore as bribe, through his intermediary Sri Wilson Varghese, who was arrayed as accused 2, to settle a case registered against him by the Enforcement Directorate, Kochi.*
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> *3. The petitioner Sri Aneesh, associated*

with "Vazhavila Cashews," a firm registered in his mother's name, received a notice from the Enforcement Directorate (ED), Kochi, regarding suspected fund diversion. During his appearance at the ED office, Assistant Director Sri Shekhar Kumar allegedly threatened him with arrest and told him to settle the matter. Soon after, Sri Wilson (A2), who claimed to be an ED intermediary, contacted the petitioner and conveyed that Shekhar Kumar is demanding 2 crore as bribe to settle the matter. The petitioner was instructed to remit the bribe amount in four instalments of ₹50 lakhs to an Axis Bank account of Thane Branch and to pay 2 lakhs in cash and ₹50,000 online. Unwilling to engage in bribery, the petitioner approached the VACB. Pursuant to the pre-trap verification, which prima facie substantiated the allegations, a trap was lawfully organized and executed, culminating in the apprehension of Accused No. 2 while accepting the illegal gratification of ₹2 lakhs in cash. Following his arrest, Accused No. 2 disclosed the involvement of additional co-conspirators, namely Sri Mukesh Jain, a hawala agent and Sri Ranjith R Warrier, a chartered accountant practicing in Ernakulam. Based on this disclosure and subsequent investigation,

> *both individuals were taken into custody and formally arrayed as Accused Nos. 3 and 4 in the case respectively and produced before the Hon'ble Vigilance Court Muvattupuzha in due course.*

4. While canvasing anticipatory bail to the petitioner, the learned senior counsel for the petitioner submitted that, the petitioner is innocent and the allegations levelled against him are absolutely false. According to the learned senior counsel for the petitioner, this case has been registered with ulterior motive and vexatious intentions, so that the defacto complainant, who has been facing prosecution initiated against him by the Enforcement Directorate to wriggle out of the same. It is pointed out by the learned senior counsel that, five crimes got registered by the Enforcement Directorate against the defacto complainant in this crime and his parents, before different Police Stations at the instance of different persons, on the allegation that he siphoned off Rs.24 Crores. It is pointed out by the learned senior counsel for the petitioner further that, there was no direct contact or whatsoever in between the petitioner and other co-accused

either through phone or social media at any point of time. Therefore, telephone calls or communications in between the co-accused and the defacto complainant would not have a deterrent effect on the petitioner. Submitting so, the learned senior counsel for the petitioner further submitted that, the petitioner being a senior officer of the Enforcement Directorate, is ready to co-operate with the investigation by surrendering himself for questioning. Therefore, he may be released on anticipatory bail by imposing necessary conditions to facilitate the investigation.

5. It is pointed out by the DGP, who resisted this application for pre-arrest bail, highlighting that the involvement of the petitioner in this crime could be gathered, *prima facie*, from the prosecution records and in such a case, the interrogation of the petitioner is absolutely necessary to unearth the truth of the allegations against him. But, the learned DGP did not emphasize the necessity of custodial interrogation, having considered the facts of the case.

6. As of now, the following facts could be gathered from Paragraph No.12 of the Statement filed by the Deputy

Superintendent of Police, VACB. The same read as under:

12. It is humbly submitted that the below mentioned facts may be considered with application submitted by the Applicant for the anticipatory bail.

1. The name and other details of the defacto complainant is seen written in the personal diary solely maintained by accused 4 on the entry dated 01.04.2025.

2. The defacto complainant has never been a client of Accused No. 4, nor was there any prior acquaintance or professional relationship between them. The only individual known to have had prior familiarity with the defacto complainant is Accused No. 1.

3. In accordance with a promise made by Accused No. 2 to establish his credibility, the defacto complainant received a summons signed by Accused No. 1 via email to appear on 14.05.2025.

4. Numerous other names listed in the personal diary of Accused No. 4 pertain to individuals who are presently under enquiry or investigation before Accused No. 1.

5. The applicant's mobile phone number is found saved in the contact list of Accused No. 3, *who is identified as an agent involved in Angidiya, an illegal hawala-based money transfer system.*

6. Several images of files under enquiry by the Enforcement Directorate are found stored in the mobile phone of Accused No. 2. to be investigated to unearth the conspiracy.

7. Substantial evidence recovered from the mobile phone of Accused No. 4 reveals that Accused No. 1 and Accused No. 4 were using the Face Time application on iPhone for communication, allegedly in furtherance of their unlawful activities which requires in depth investigation and forensic examination.

8. The forensic analysis of mobile phones confirms that, during the three days immediately preceding the trap incident, multiple FaceTime calls were exchanged between Accused No. 1 and Accused No. 4.

9. Upon scientific analysis of the mobile phones of A2, A3 and A4, substantial digital evidences were received indicating the relationship of applicant(A1) with other accused.

7. The learned counsel for the petitioner in Crl.M.A. No.1 of 2025 zealously opposed grant of bail and submitted

that, arrest and custodial interrogation of the petitioner are necessary, since the overt acts at the instance of the petitioner/1st accused are made out, *prima facie*. Therefore, grant of anticipatory bail could not be considered in the instant case. He also submitted that, as per Annexure.R2(1), the petitioner in Crl.M.A. No.1 of 2025, who is the Editor, Green Kerala News, submitted representations before the Director of CBI as well as the Superintendent of Police, CBI, seeking investigation and registration of case against the Enforcement Directorate Officials, pointing out the corruption in the Enforcement Directorate Office at Cochin. The allegations in Annexure.R2(1) are stated in paragraph Nos.2, 3 and 4 therein.

8. The learned counsel for the petitioner in Crl.M.A. No.1 of 2025 also pointed out, Annexure.R2(4) complaint filed by the petitioner in Crl.M.A. No.1 of 2025 before the Assistant Directorate pointing out the complaint against Vaidekam Ayurvedic Resort on 17.04.2024.

9. Going by the prosecution records collected by the Investigating Officer, the same would show the involvement

of the petitioner in this crime, *prima facie*. Since the allegations are very serious, the same would require fair and effective investigation. However, addressing the submissions made by the learned senior counsel for the petitioner and the learned DGP, there is no necessity of custodial interrogation of the petitioner in this matter, as the investigation is possible by subjecting the petitioner for interrogation, otherwise. As far as the necessity of custodial interrogation pointed out by the petitioner in Crl.M.A. No.1 of 2025 is concerned, the same cannot be accepted as against the stand of the prosecution and against the available prosecution records. Therefore, the objection of the petitioner in Crl.M.A. No.1 of 2025 is found to be unsustainable.

10. To sum up, this Court is of the view that, in this matter, investigation is possible by questioning the petitioner by the Investigating Officer, without arresting and detaining him in custody.

11. In view of the above and in the interest of justice, I am inclined to enlarge the petitioner on anticipatory bail,

with direction to the petitioner to subject himself for interrogation before the Investigating Officer, for the purpose of investigation, within a period of two weeks from today.

Therefore, this petition stands allowed. The petitioner is enlarged on bail on conditions:

i. The petitioner shall surrender before the Investigating Officer, within a period of two weeks from today. On such surrender, the Investigating Officer can interrogate the petitioner. In the event of his arrest, the Investigating Officer shall produce the petitioner before the Jurisdictional Court on the date of arrest itself.

ii. On such production, Jurisdictional Court shall release the petitioner on bail, on executing bond for Rs.30,000/- (Rupees Thirty thousand) each, by himself and by two sureties, each for the like sum to the satisfaction of the Jurisdictional Court.

iii. The petitioner shall co-operate with investigation and shall be made available for interrogation and for the purpose of investigation, as and when the Investigating Officer directs so.

iv. The petitioner, shall not, intimidate the witnesses or interfere with the investigation in any manner.

v. The petitioner shall not commit any offence during currency of this bail and any such involvement alone is a reason to cancel the bail hereby granted.

Sd/-

A. BADHARUDEEN
JUDGE

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