



2025:KER:90447

B.A No.13653 of 2025

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

TUESDAY, THE 25TH DAY OF NOVEMBER 2025 / 4TH AGRAHAYANA,

1947

BAIL APPL. NO. 13653 OF 2025

CRIME NO.999/2025 OF SREEKARIYAM POLICE STATION,

THIRUVANANTHAPURAM

PETITIONER/ACCUSED:

DR. C. N VIJAYAKUMARI
AGED 53 YEARS
W/O. DR. K. UNNIKRISHNAN,
CHAIRPERSON/DEAN FACULTY OF ORIENTAL STUDIES,
UNIVERSITY OF KERALA, KARYAVATTOM,
THIRUVANANTHAPURAM DISTRICT,
RESIDING AT KANNADI ILLAM, KODALLOOR,
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM,
PIN - 695011

BY ADVS.
SMT.NISHA GEORGE
SRI.GEORGE POONTHOTTAM (SR.)
SMT.SILPA SREEKUMAR

RESPONDENT/STATE AND COMPLAINANT:

1 STATE OF KERALA
REPRESENTED BY THE DIRECTOR GENERAL OF
PROSECUTION, HIGH COURT OF KERALA,
ERNAKULAM, PIN - 682031



2025:KER:90447

B.A No.13653 of 2025

2

2 THE STATION HOUSE OFFICER
SREEKARYAM POLICE STATION, SREEKARYAM,
THIRUVANANTHAPURAM, PIN - 695017

3 VIPIN VIJAYAN
AGED 39 YEARS
S/O. VIJAYAN, 27/2031, MULLASSERY LANE,
CHIRAKKULAM ROAD, VANCHIYOOR THIRUVANANTHAPURAM
DISTRICT -695053, IS IMPEADED AS ADDL.R3 AS PER
ORDER DATED 19/11/2025 IN CRL.MA.1/2025.

BY ADV
SRI.M.C.ASHI, SR.P.P.,
SRI.HARISH VASUDEVAN FOR ADDL.R3

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
25.11.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



2025:KER:90447

B.A No.13653 of 2025

3

K.BABU, J.

B.A No.13653 of 2025

Dated this the 25th day of November, 2025

ORDER

This is an application filed under Section 482 of the Bharatiya
Nagarik Suraksha Sanhita (BNSS), 2023.

2. The petitioner is the accused in Crime No.999/2025 of
Sreekaryam Police Station, Thiruvananthapuram. The offences
alleged against the petitioner are punishable under Sections 3(1)(r)
and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes
(Prevention of Atrocities) Act, 1989 (for short 'the Act').

3. I have heard Sri.George Poonthottam, the learned Senior
Counsel appearing for the petitioner, Sri. Harish Vasudev, the
learned counsel appearing for additional respondent No.3/victim
and the learned Public Prosecutor on the question of
maintainability of the bail application.

4. The learned Senior Counsel appearing for the petitioner



2025:KER:90447

B.A No.13653 of 2025

4

submitted that the bar created under Sections 18 and 18-A of the Act shall not apply if the complaint does not make out a prima facie case to attract the ingredients of the offences under the Act. The learned Senior Counsel submitted that the absolute nature of the bar under Sections 18 and 18-A of the Act has to be applied with a rider. The learned Senior Counsel relied on **Kiran v. Rajkumar Jivraj Jain [2025 KLT OnLine 2818 (SC)]** in support of his contentions. The learned Senior Counsel, relying on **Vidadala Rajani and Others v. State of Andhra Pradesh, rep by its Public Prosecutor, through S.H.O and Another (2025 SCC OnLine AP 3404)**, a Division Bench judgment of the Andhra Pradesh High Court, submitted that in the event prima facie case is not made out, the application for pre-arrest bail is maintainable before the High Court.

5. The learned counsel appearing for respondent No.3/victim and the learned Public Prosecutor, relying on **Ajan G.Krishnan v. State of Kerala and Another [2017 (1) KHC 412]** and **Basheer K.M and**



2025:KER:90447

B.A No.13653 of 2025

5

Others v. Rajani K.T. and others [2022 (6) KHC 619], submitted that an application for anticipatory bail is not maintainable before the High Court. It is submitted that the High Court has no concurrent jurisdiction under Section 438 Cr.PC/482 BNSS.

6. In **Prathvi Raj Chauhan v. Union of India [(2020) 4 SCC 727]**, the Supreme Court held that the bar created under Sections 18 and 18-A shall not apply if the complaint does not make out a prima facie case for the applicability of the provisions of the Act.

7. In **Subhash Kashinath Mahajan (Dr.) v. State of Maharashtra and Another [2018 (2) KHC 207]**, while dealing with the pre-amended Act, the Supreme Court held that there is no absolute bar against grant of anticipatory bail in cases under the Act if no prima facie case is made out or where on judicial scrutiny the complaint is found to be prima facie mala fide.

8. This Court in **xxxx v. State of Kerala [2022 KHC 1001]**, while considering the application of the bar under Sections 18 and 18-A of the Act held thus:



2025:KER:90447

B.A No.13653 of 2025

6

“Therefore, when genuine complaint/complaints at the instance of the Schedule Caste or Scheduled Tribe members, which would attract offence/offences incorporated under the SC/ST (POA) Act, if made, the same shall be viewed seriously and appropriate legal action shall go on, to attend the grievances of the complaint/complaints. At the same time, the courts should have a duty to rule out the possibilities of false implication of innocent persons as accused, with a view to achieve ulterior motives of the complaints, with threat of arrest and detention of the accused in custody, because of the stringent provisions in the SC/ST (POA) Act in the matter of grant of anticipatory bail. It is shocking, rather a mind blowing fact that many innocent persons are victims of false implication under the SC/ST (POA) Act. Therefore, it is the need of the hour for the courts to segregate the grain from the chaff by analysing the genesis of the case, the antecedents prior to registration of the crime, with reference to existence of animosity between the complainant and the accused, with particular attention, vis-avis previous disputes/cases/ complaints, etc. while considering the question of prima facie case, when considering plea for prearrest bail. In cases, where there are materials to show that the accused and the complainant are in inimical terms, and there are previous litigation between them or their men or representatives and in retaliation or as a sequel to the same, the allegations in the complaint constituting offence/offences under the SC/ST (POA) Act are made, the same may be the reasons to doubt the case prima facie.

9. In **Shajan Skaria v. State of Kerala (2024 SCC OnLine SC 2249)**, the Supreme Court observed that if the necessary ingredients to constitute the offence under the Act, 1989 are not disclosed on the prima facie reading of the allegations levelled in



2025:KER:90447

B.A No.13653 of 2025

7

the complaint or FIR, then in such circumstances, as per the consistent exposition by various decisions of the Supreme Court, the bar of Section 18 would not apply and the courts would not be absolutely precluded from granting pre-arrest bail to the accused persons. The Supreme Court further observed that in a given case, an accused may argue that although the allegations levelled in the FIR or the complaint do disclose the commission of an offence under the Act, 1989, yet the FIR or the complaint being palpably false on account of political or private vendetta, the court should consider the plea for grant of anticipatory bail despite the specific bar of Section 18 of the Act, 1989.

10. In **Kiran** (supra), a Three Judge Bench of the Supreme Court held thus:

“The absolute nature of bar, however, could be read and has to be applied with a rider. In a given case where on the face of it the offence under Section 3 of the Act is found to have not been made out and that the accusations relating to the commission of such offence are devoid of prima facie merits, the Court has a room to exercise the discretion to grant anticipatory bail to the accused under Section 438 of the Code.”

11. In view of the precedents referred to above, I am in perfect



2025:KER:90447

B.A No.13653 of 2025

8

agreement with the argument of the learned Senior Counsel that if the required ingredients to constitute the offence under the Act, 1989 are not disclosed on the prima facie reading of the allegations levelled in the complaint or FIR, the bar under Sections 18 and 18-A would not apply and the Special Court and the High Court are not precluded from granting pre-arrest bail.

12. The question under consideration in the present case is whether the High Court has concurrent jurisdiction under Section 438 Cr.PC/Section 482 BNSS.

13. The petitioner has approached this Court seeking anticipatory bail under Section 482 of the BNSS. While considering the maintainability of an application seeking anticipatory bail, this Court in **Ajan G.Krishnan v. State of Kerala and Another [2017 (1) KHC 412]**, held thus:

“16. On a close analysis of the provisions of the Act, there can be no doubt that only the Special Court or the Exclusive Special Court constituted under S.14 of the Act can have jurisdiction to entertain an application for Bail with respect to offences committed under Act 33 of 1989. The power of the Court of Session and of the High Court in its original criminal jurisdiction to entertain an application under S.438



2025:KER:90447

B.A No.13653 of 2025

9

or S.439 of the Code has been impliedly taken away by S.14A of the said Act. The power of the High Court in the matter is only appellate jurisdiction as provided under S.14A(2) of the said Act."

14. This Court in **Pareeth and Others v. State of Kerala and Another (2021 KHC OnLine 131)** reiterated this principle. Later in **Basheer K.M and Others v. Rajani K.T. and others [2022 (6) KHC 619]**, this Court concluded thus:

"29. In view of the above discussions, the following conclusions are arrived at:

(i) In cases alleging offences under the SC / ST Act, an application for anticipatory bail can be filed only before the Special Court or the Exclusive Special Court, as the case may be, and not before the High Court.

(ii) The High Court has neither concurrent jurisdiction under S.438 nor original jurisdiction under S.482 of Cr.P.C. Similarly the Sessions Courts also do not have the jurisdiction to grant anticipatory bail.

(iii) The Special Court, while dealing with an application for anticipatory bail must first ascertain whether a *prima facie* case for an offence punishable under the Act is made out. If the answer is 'Yes', the bar under S.18 and S.18A of the SC / ST Act will come into play and there cannot be any further consideration on the entitlement of anticipatory bail. If the answer to the above question is 'No', the Special Court will be entitled to consider the anticipatory bail application on merits.

(iv) The order granting or rejecting the anticipatory bail will be subject to the appellate jurisdiction of the High Court



2025:KER:90447

B.A No.13653 of 2025

10

under S.14A of the Act.”

15. In Vidadala Rajani and Others (supra), the Andhra Pradesh

High Court observed thus:

“.....in the event prima facie case is not made out, the application for pre-arrest bail/anticipatory bail is maintainable under Section 438 Cr.PC before the High Court only and not before the Special Court or Exclusive Special Court constituted under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Further, the High Court retains its concurrent as well as Original Jurisdiction under Section 438 of the Cr.PC, 1973 (present section 482 of BNSS, 2023) and also under Section 14-A of the Act.”

16. I respectfully disagree with the view taken by the Division Bench of the Andhra Pradesh High Court.

17. It is submitted at the bar that the conclusion arrived at by this Court in Basheer K.M and Others (supra) that “the order granting or rejecting the anticipatory bail will be subject to the appellate jurisdiction of the High Court under Section 14-A of the Act” may cast a confusion on the power of the Special Court to grant anticipatory bail. I am of the considered view that there is no room for any confusion as in Basheer K.M and Others this Court only intended that the order granting or rejecting the anticipatory



2025:KER:90447

B.A No.13653 of 2025

11

bail by the special court is appealable under Section 14-A of the Act. It is made clear that unless challenged either in appeal or in any other proceedings before the higher courts the order granting or refusing anticipatory bail by the special court would remain as absolute.

18. The learned Senior Counsel relying on a complaint filed by the additional respondent No.3/victim on 27.10.2025 before the Vice Chancellor much prior to the filing of the present complaint, submitted that the falsity of the allegations in the FIR is explicit as the said complaint does not contain the allegations levelled in the FIR. The learned Senior Counsel submitted that the possibility of false implication cannot be ruled out. The learned Special Judge will consider those questions if agitated in an application seeking anticipatory bail that may be filed by the petitioner before it.

19. In view of the binding precedents mentioned above, the Bail Application stands dismissed as not maintainable. The petitioner is at liberty to approach the Special Court for appropriate



2025:KER:90447

B.A No.13653 of 2025

12

relief.

20. In view of the contentions raised, and in the interests of justice, the petitioner is granted protection from arrest for a period of two weeks from today.

The Bail Application stands disposed of as above.

Sd/-
K.BABU,
JUDGE

KAS



2025:KER:90447

B.A No.13653 of 2025

13

APPENDIX OF BAIL APPL. 13653/2025

PETITIONER ANNEXURES

Annexure A1	TRUE COPY OF THE SAID REPORT DATED NIL SUBMITTED BY THE PETITIONER BEFORE THE HONOURABLE VICE CHANCELLOR OF THE UNIVERSITY OF KERALA.
Annexure A1 (a)	TYPED COPY OF ANNEXURE A1.
Annexure A2	TRUE COPY OF THE FIR IN CRIME NO. 999/2025 FILED BY THE SREEKARYAM POLICE STATION DATED 08.11.2025.
Annexure A3	TRUE COPY OF THE COMPLAINT/LETTER SUBMITTED BY THE STUDENTS BEFORE THE VICE CHANCELLOR OF THE KERALA UNIVERSITY DATED 27.10.2025.