

**IN THE COURT OF THE ENQUIRY COMMISSIONER AND
SPECIAL JUDGE, KOLLAM.**

**Present :- Dr. Mohit C. S.
Enquiry Commissioner & Special Judge.**

Wednesday the 3rd day of December, 2025.

Crl. M. P. No. 248 of 2025.

IN

(CRIME NO. 3701/CB/CU-IV/TVM/D/2025, SIT Crime Branch)

Petitioner /3rd Accused : Sri N. Vasu
Age - 75, S/o K. Nanu,
CKRRA 127/1, TC 93/2367(1),
Kalharam, Palliroad, Pettah,
Vanchiyoov village,
Thiruvananthapuram.

Respondent / complainant : State of Kerala, represented by
the Public Prosecutor(I/C)
Sri. Siju Rajan.

ORDER

This is an application for regular bail filed under Section 480 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

2. The material averments in the bail application of the 3rd accused in this crime, namely Sri.N.Vasu, are the following:-

3. The petitioner is the 3rd accused in the aforesaid Crime registered for the offences punishable under Sections 403, 406, 409, 466, 467, 120-B r/w

34 of the Indian Penal Code, and Section 13(1)(a) of the Prevention of Corruption Act, 1988.

4. The petitioner is aged 75 years and he had formerly served as the Vigilance Tribunal Judge from 05/04/1991 to 09/06/2006 and as the Devaswom Commissioner from 10/11/2010 to 15/03/2013. Further he was again the Devaswom Commissioner from 01/02/2018 to 14/03/2019. The petitioner subsequently worked as the President of the Travancore Devaswom Board from 15/11/2019 to 14/11/2021.

5. The petitioner had an unblemished personal career and he has never given any room for allegations. The petitioner also does not have any criminal antecedents.

6. The Hon'ble High Court of Kerala noticed certain clandestine acts of the Travancore Devaswom Board Officials which resulted in the pilferage of the gold cladding installed in various portions of the *sanctum sanctorium* of the Sree Lord Ayyappa Temple at Sabarimala while considering report No. SSCR.No.23/2025 filed by the Chief Vigilance and Security Officer of the Travancore Devaswom Board. Thereafter two criminal cases were registered as Crime No. 3700/25 and Crime No. 3701/2025. The present crime concerns the removal of the gold clad door frames of the aforesaid Sreekovil and its gold plating activities carried out in the year 2019.

7. The allegations levelled against the petitioner are based solely on official acts carried out by him while he was functioning as the Commissioner of the Travancore Devaswom Board during his tenure from 1/02/2018 to 14/03/2019. In fact on 16/02/2019, the Executive Officer at Sabarimala had forwarded a letter addressed to the Travancore Devaswom Board through the Devaswom Commissionerate. In the letter the Executive

Officer had requested for sanction of the Devaswom Board to entrust gold plating work on copper plates covering the door frames of the Sreekovil to the sponsor who had applied for carrying out the work as an offering. This letter was received in the onward transmission to the Board Office by the concerned section Clerk of the Devaswom Commissionerate. The Clerk in turn put up a note to the Assistant Commissioner and Deputy Devaswom Commissioner who are higher officials and Gazetted Officers for transmission of the request to the Board. All the officers under the Devaswom Commissioner nodded their approval and the petitioner also put his “yes” on the file and forwarded the letter to the Secretary, clearly stating that the matter be discussed at the Board and appropriate orders issued. In fact the petitioner did not make any, recommendations in this regard and he neither recommended nor instructed and merely submitted before the Devaswom Board for a proper decision. The said letter had been forwarded by the petitioner through proper channel on 6/02/2019 with the following request as follows: മേൽ സംഗതിയിൽ അനുവാദം നൽകുന്നത് സംബന്ധിച്ച് ബോർഡ് തലത്തിൽ ചർച്ച ചെയ്തു ഉചിതമായ ഉത്തരവ് ഉണ്ടാകുവാൻ താൽപര്യപ്പെടുന്നു. Thereafter a few days on 15/03/2019 the petitioner had to demit his office, completing his tenure and he was not aware of any further proceedings. Subsequently the Devaswom Board took the decision to accord sanction pursuant to the letter of the Executive Officer at Sabarimala on 20/03/2019 and at that time the petitioner was not holding his chair. Hence the petitioner has nothing to do with the decision of the Travancore Devaswom Board. Further a copy of the Executive Officer’s letter was also attached along with the forwarding letter of the petitioner.

8. The petitioner has subsequently joined the Devaswom Board as President only on 14/11/2019. Hence he was not holding any post with the Travancore Devaswom Board during that time.

9. Thereafter on 9/12/2019 Mr. UnniKrishnan Potti had addressed the Travancore Devaswom Board through an e-mail, and informed that he had some balance gold left after finishing the work of the main door and the Dwarapalakas on the *sanctum sanctorium*, and that he would like to use it for a girls marriage who deserved support in coordination with the Travancore Devaswom Board. He had sought the valuable opinion of the Travancore Devaswom Board in this regard. The petitioner as a usual and diligent administrative process had directed to obtain the opinion of the Thiruvabharanam Commissiioner and the Executive Officer of Sabarimala in this regard. The objective was definitely to verify whether there was any irregularity concerned. The aforesaid officers are actually responsible to report whether there was any malpractice or suspicion in this regard.

10. Thereafter the Thiruvabharanam Commissioner opined in his report dated 19/12/2019 that there is nothing wrong in conducting the event. The Board also decided to ask Mr. Unnikrishanan Potti as to what sort of co-ordination he is expecting from the Travancore Devaswom Board. However there was no response. In fact there is no connection between the forwarding letter issued in March, 2019 and the e-mail communication in December, 2019. Both incidents occurred at two different time periods and under separate Official capacities.

11. The crime was registered against the petitioner based on the observation of the Hon'ble High Court that there was an omission in the forwarding letter of the Dewaswom Commissioner to specify that the copper

plates were “previously gold claded”. The petitioner’s role was just to forward the letter of the Executive Officer to be placed before the Devaswom Board and there was no deliberate act with intent to facilitate any unlawful act.

12. At no point of time do the facts of this case attract the offences alleged against the petitioner. The petitioner appeared before the investigating officer on two occasions pursuant to notice and fully cooperated with the investigating agency. Further Police Custody was allowed and the petitioner was produced back before this Court on 20/11/2025. The presence of the petitioner is not required in the further investigation of the case.

13. The investigation in the matter is almost completed, mahazars have already been prepared, recovery of the articles carried out and statement of the witness has been recorded and identification of the accused persons is over and they are at the verge of laying charge. The petitioner is totally innocent and he has been falsely implicated in this case. The petitioner is in judicial custody from 11/11/2025 and further detention will adversely affect his health and cause mental trauma to him as well as his family members.

14. The petitioner is aged 75 years and is undergoing treatment for multiple chronic conditions, including cardiovascular, respiratory, metabolic, musculoskeletal, urological and ophthalmologic problems. He is under continuous medical supervision and he is in need of regular follow-up with respective specialists. He was also admitted as an inpatient at KIMS Hospital for about a month due to Covid 19 infection.

15. The petitioner is ready and willing to co-operate with the investigation. He will make himself available for interrogation as and when

required. The petitioner is having deep roots in the society and there is not even a remote possibility of the petitioner fleeing from justice, if released on bail. The petitioner will also not interfere with the course of the investigation and any condition may be for imposed on him while granting bail.

16. Hence on the basis on the aforesaid grounds the petitioner prayed for granting of bail and for his release on bail in the present crime 3701/CB/CU/CU(V)Tvpm. of 2025 of Crime Branch, Thiruvananthapuram.

17. The investigating officer filed a detailed report opposing the bail application and the material contentions are the following:

18. The 3rd accused along with the other accused with dishonest intention for the purpose of making pecuniary and personal gain to the accused persons and in turn loss to the Travancore Devaswom Board conspired together and misappropriated gold that was present in the gold cladding that was installed in the door frames of the Sreekovil of the Sree Ayyappa Temple at Sabrimala. The accused No.3 had initiated a recommendation wherein “gold cladded copper plates” were purposefully and deliberately described as mere “copper plates”. The 3rd accused was the Devaswom Board Commissioner at the relevant time on 14.03.2019. Pursuant to the recommendation of the 3rd accused, the door frames that were cladded with gold and having weight of 42.100 kilograms was entrusted to an agency at Chennai by name “Smart Creations” through the 1st accused. Thereafter gold weighing 409 grams was recovered in an amalgamated condition from the 1st accused who in turn obtained the gold from the 6th accused.

19. Accordingly it is alleged that the 3rd accused along with other accused conspired and aided in the misappropriation of gold belonging to the

Sree Ayyappa Temple at Sabarimala and that the 3rd accused in fact initiated the process on the basis of his recommendation of 19.03.2019 wherein with full knowledge that the door frames of the Sreekovil were cladded with gold, the accused described the door frames as comprising of “copper plates” alone.

20. The petitioner had worked as the Devaswom Board Commissioner of the Travancore Devaswom Board for a very long period from 10/11/2010 to 15/2/2013 and again from 1/2/2018 to 14/3/2019. The petitioner had full knowledge that the door frames of the Sreekovil and the adjoining “Prabamandalam” were cladded with gold. However despite this knowledge the petitioner entered into a criminal conspiracy with the other accused and forwarded a recommendation in his capacity as Devaswom Commissioner dated 16/2/2019. Significantly in the recommendation letter forwarded to the petitioner, it was indicated that the door frames were gold cladded formerly. The petitioner in his recommendation letter of 6/3/2019 No.ROC 6068/18/Sabarimala to the Secretary of the Travancore Devaswom Board, purposefully omitted to use the words “മുൻപ് സ്വർണ്ണം പൂശിയിട്ടുള്ളത്” and pursuant to the recommendation of the petitioner the Board decided on 20/3/2019 to hand over the “copper plates” to the 1st accused which in turn led to the misappropriation of gold .

21. Further the petitioner had worked as the President of the Travancore Devaswom Board during the period 15/11/2019 to 14/11/2021. During the said period on 9/12/2019 the 1st accused had sent an e-mail communication to the petitioner seeking opinion regarding the user of balance gold in the hands of the 1st accused for conducting the marriage of a lady .The petitioner

failed to enquire into the matter regarding balance gold in the hands of a private party and he did not initiate any further action in this regard.

22. In fact in the year 1995 the head of the UB (United Breweries) Group Sri. Vijay Mallya had submitted a proposal for gold cladding work of the said Sreekovil. which proposal was approved by the Board and the Hon'ble High Court of Kerala. Thereafter in 1998 gold cladding work was carried out using a total of 30291 grms of gold, the details of which are mentioned in the letter dated 15/10/1998 of the Finance Manager of the company MC Dowell & Co. Ltd.

23. The Travancore Devaswomm Board had decided to hand over the "copper plates" to the 1st accused vide order dated 20/3/2019 mainly on the basis of the letter of the petitioner who is a responsible high level officer of the Board of the rank of Devaswom Commissioner.

24. It is highly illogical and irrational that the petitioner was merely a "transmission agent." This argument is only made to escape from criminal liability in this case. Further the petitioner had also not sought for the opinion of the Chief Priest (Tanthri) of the temple which is a grave violation of tradition. This is a grave lapse on the part of the petitioner who was a high ranking officer of the Board at the level of Devaswom Commisioner.

25. The Executive Officer of the Devaswom prepared a mahazar on 18/5/2019 which is in fact based on the recommendation letter of the petitioner dated 6/3/2019 which excluded the crucial words "മുൻപ് സ്വർണ്ണം പുതിയിട്ടുള്ളത്."

26. The petitioner after receiving the e-mail on 9/12/2019 failed to enquire in to the matter and as a result he conspired with the other accused to

enable the 1st accused to misappropriate the gold. Hence the act of the petitioner facilitated the misappropriation of gold as the Former Devaswom Commissioner and the President of the Travancore Devaswom Board. The petitioner was duty bound to conduct a detailed enquiry regarding the availability of “excess gold” in the hands of a private party.

27. In fact in the Devaswom Manual in Volume 1 chapter XI under rule 38 it is specially mentioned that the repairs of valuables should be conducted within the Devaswom premises .

28. It is on the basis of the specific direction in the Manual that the petitioner issued a recommendation letter on 6/3/2019 permitting the valuables to be taken out of the temple. The gold misappropriated by the accused persons could not be recovered so far and an in depth investigation is required.

29. If bail is granted to the petitioner there is every possibility of the petitioner using his high level influence to destroy evidence, to tamper with the evidence , to threaten the witnesses , to interfere with the investigation and to flee from justice. Considering the gravity of the offence and the involvement of the petitioner which has to be investigated, bail should not be granted . If bail is granted it will cause grave anxiety to the devotees and the general public. It will also be a threat to the rule of law. Further it will also adversely effect the religious sentiments of lakhs of devotees. The investigation is at its preliminary stage.

30. On the basis of the aforesaid contentions the investigating officer prayed for the dismissal of the application. From the aforesaid rival contentions the following point arises for adjudication:

Whether the petitioner/3rd accused is entitled to be enlarged on bail at this stage of the Investigation?

31. The Point: Admittedly the petitioner had worked as the Devaswom Commissioner of the Travancore Devaswom Board for two spells firstly from 10/11/2010 to 15/3/2013 and thereafter from 01/2/2018 to 14/3/2019. Admittedly the petitioner had worked as the President of the Travancore Devaswom Board from 15/11/2019 to 14/11/2021 for a period of two long years. Further admittedly the petitioner is not an ordinary layman and he was the Former Vigilance Tribunal Judge from 05/4/1991 to 09/6/2006. Hence admittedly the petitioner is a well trained lawyer who had also officiated as the Presiding Judge of the Vigilance Tribunal mandated by law to adjudicate cases of misconduct of public servants under the Kerala Civil Services (Vigilance Tribunal) Rules 1960 for a long period of 15 years prior to his appointment as the Devaswom Commissioner of the Travancore Devaswom Board that too for two spells mentioned above and later on as the President of the Travancore Devaswom Board again for a period of two years. Hence admittedly the petitioner has a very long association with the Board at the highest echelons of authority in the Travancore Devaswom Board at Sabarimala atleast from 2011 onwards.

32. The case set up by the petitioner in his bail application has to be hence evaluated and adjudicated in the backdrop of the aforesaid cardinal facts. The allegations levelled against the petitioner who is the 3rd accused in the present crime relates to the alleged misappropriation of gold from the “gold clad copper plates” covering the Sreekovil door frames of the Sree Ayyappa Temple at Sabarimala. The 1st allegation pertain to a recommendation letter admittedly issued by the petitioner on 6/3//2019 in

which the petitioner allegedly omitted to mention the crucial words “മുൻപ് സ്വർണ്ണം പൂശിയിട്ടുള്ളത്” in his recommendation letter to the Board. It is the case of the investigating agency that though the Executive Officer of the Board had forwarded a recommendation letter to the Devaswom Commissioner as follows: കട്ടിള പൊതിഞ്ഞിട്ടുള്ള (മുൻപ് സ്വർണ്ണം പൂശിയിട്ടുള്ളത്) ചെമ്പ് തകിടുകൾ ഇളക്കിയെടുത്ത് ബാംഗ്ലൂർ ശ്രീ. ഉണ്ണികൃഷ്ണൻ പോറ്റിയ്ക്ക് കൈമാറുന്നതിനും, ആയത് സ്വർണ്ണം പൂശി തിരികെ കൊണ്ടു വരുന്ന മുറയ്ക്ക് കട്ടിളയിൽ തിരികെ സ്ഥാപിക്കുന്നതിനുമുള്ള അനുവാദ ഉത്തരവ് ഉണ്ടാകുന്നതിലേക്കായി വിവരം അറിയിച്ചു കൊള്ളുന്നു, he purposefully omitted the crucial words “മുൻപ് സ്വർണ്ണം പൂശിയിട്ടുള്ളത്” and forwarded his recommendation letter which contain the following description “കട്ടിളകളിൽ പൊതിഞ്ഞിരിക്കുന്ന ചെമ്പ് തകിടുകൾ ഇളക്കി ഉണ്ണികൃഷ്ണൻ പോറ്റിയ്ക്ക് കൈമാറുന്നതിനും, ആയത് സ്വർണ്ണം പൂശി തിരികെ ലഭിക്കുന്ന മുറയ്ക്ക് കട്ടിളയിൽ തിരികെ സ്ഥാപിക്കുന്നതിന്”. It is the case of the investigating agency that this vital omission was pursuant to a larger criminal conspiracy to facilitate the misappropriation of gold by the first accused Sri. Unnikrishnan Potti, a private party and former assistant Santhi at Sabarimala under the guise of re-plating of the aforesaid door frame coverings. It is the case of the investigating agency that it was pursuant to the aforesaid recommendation letter of the Devaswom Commissioner that the Board eventually issued an order No ROC.9097/18/M dated 20/3/2019 which in turn led to the illegal entrustment of the door frames/lintels to the 1st accused for re-plating and

the ensuing misappropriation. The second allegation pertains to an e-mail send by the 1st accused to the petitioner on 9/12/2019 seeking opinion of the petitioner in using “excess gold” in his possession after the alleged re-plating work for solemnising a girls marriage. It is the case of the investigating agency that the petitioner did not carry out any enquiry and did not initiate any action despite the fact that he came to know about possession of “excess gold” of the Board in the hands of a private third party.

33. Importantly the petitioner has averred that he has issued the recommendation letter as Devaswom Commissioner on the basis of the official notings of his subordinate officers and in particular the Assistant Commissioner and the Deputy Devaswom Commissioner. It is averred in the bail application as a primary ground that he had endorsed “yes” on the file and that he had no personal complicity or role in the matter. Further it is highlighted that the petitioner did not make any recommendation personally either in the positive or in the negative and merely submitted the matter before the Board for proper decision. It is also highlighted that a few days after forwarding the recommendation letter, the petitioner demitted his office on 15/3/2013 completing his tenure as the Devaswom Commissioner. In sum the petitioner would aver that the Devaswom Board had decided to accord sanction on 20/3/2019 based on the said recommendation letter made in the manner mentioned above and at which time the petitioner was not in office.

34. Coming to the e-mail communication of 09/12/2019 it is averred that the petitioner had deligently and as part of usual administrative process directed the calling of opinion of the Thiruvabharanam Commissioner and the Executive Officer at Sabarimala and that the Thiruvabharanam Commissioner forwarded a positive opinion on 19/12/2019. Hence it is

averred that in the second limb of the allegation also there is no personal culpability on the part of the petitioner.

35. The investigating agency primarily relies on the high authority vested with the Devaswom Commissioner and the President of the Devaswom Board in the matter in the context of duties and responsibilities on the two authorities as per law and the Travancore Devaswom Manuals. Even a cursory perusal of the Travancore Devaswom Manual Volume 1 (2012) chapter XV will reveal the fact that the Devaswom Commissioner and the President of the Travancore Devaswom Board occupies the highest levels in the officials hierarchy. The organisation chart in page No 63 of the Manual mentioned above, clearly reveals the fact that the Devaswom Commissioner comes in the 2nd tier of the hierarchy along with the Commissioner for Thiruvabharanam, the Chief Engineer and the Finance and Accounts Officer. The aforesaid authorities comes directly under the Board which in turn comprises of the President and two members. The duties of Devaswom Commissioner can be found in page No.67 of the said Manual and accordingly the Devaswom Commissioner is the Chief Executive Officer of the Devaswom as well as Hindu religious endowments. Further the Devaswom Commissioner should maintain a correct list of all endowments attached to the Devaswoms and other institutions under him and shall see that the proceeds from them are properly appropriated and utilised according to the intention of the trust. Further going by the said Manual the administrative head of the Travancore Devaswom Board is the President who is competent to control the staff and regulate their work. Considering the aforesaid specific authority of the highest order conferred on the President and the Devaswom Commissioner it is very pertinent to note that the

Thiruvabharanam of Lord Ayyappa were permitted to be transported for repair and re-plating to an agency in Chennai. This is in gross violation of the provisions regarding repairs of valuables of the Travancore Devaswom Board as per the Manual Volume II (2011). Going by the said Manual the aforesaid artefacts comprising of gold would be “Thiruvabharanamas” under chapter IX to be included in the register of valuables under the Devaswom Fund Rules. Under clause 23 in chapter IX works involving the use or handling of valuables belonging to the Devaswom should always be carried out at a place within the Devaswom premises and in the presence of a responsible officer authorised by the Thiruvabharanam Commissioner. The making or repairing of Thiruvabharanam should as far as possible be done under the immediate supervision of the Deputy Devaswom Commissioner. Further detailed mahazar should have been prepared showing the weight, touch of the articles as per accounts and as actually found at the time both when the valuables are handed over to the contractors and when the articles are accepted back after re-pair work from the contractors. Hence it cannot be countenanced even for a moment that the petitioner who had such a long high level association with the Board and the Sree Ayyappa Temple at Sabarimala was totally oblivious of this basic stipulation in the Travancore Devaswom Manual regarding the repair of Thiruvabharanam of Lord Ayyappa.

36. Further a cursory perusal of the recommendation letter issued by the petitioner which is appended to the report of the investigating officer will reveal the fact that in the recommendation dated 6/3/2019 the petitioner has not mentioned the crucial words “മുൻപ് സ്വർണ്ണം പൂശിയിട്ടുള്ളത്” which can

be found in the recommendation letter of the Executive Officer dated 16/2/2019. In fact the petitioner in his recommendation letter dated 6/3/2019 has used the following words “കട്ടികളിൽ പൊതിഞ്ഞിരിക്കുന്ന ചെമ്പ് തകിടുകൾ ഇളക്കി ഉണ്ണിക്രിസ്റ്റൻ പോറ്റിയ്ക്ക് കൈമാറുന്നതിനും, ആയത് സ്വർണ്ണം പുശി തിരികെ ലഭിക്കുന്ന മുറയ്ക്ക് കട്ടികളിൽ തിരികെ സ്ഥാപിക്കുന്നതിന്”. It is very crucial that the letter was issued by none other than the Devaswom Commissioner to the Board and that pursuant to the said letter the Board decided as aforesaid. The conspicuous omission of the words “മുൻപ് സ്വർണ്ണം പുശിയിട്ടുള്ളത്” in the recommendation letter dated 6/3/2019 cannot be lightly brushed aside as an inadvertent omission and it speaks volumes about the complicity of the petitioner at least prima facie. The fact that the petitioner is a seasoned lawyer who has held high judicial office also for about 10 years and that too as the Presiding Officer of the Vigilance Tribunal is very pertinent in this regard. In fact as the Devaswom Commissioner, the petitioner was duty bound under the Manual to exercise the highest level of integrity, transparency and truthfulness in all his communications to the Board. The petitioner cannot lightly rely on the file notings especially when it comes to “gold” or “Thiruvabharanam” of Lord Ayyappa. As rightly contented by the investigating agency the petitioner cannot simply take the stand that he was a mere “transmission agent” or a post office for communication with the Board. The words “gold cladded” should have triggered his sense of highest degree of duty and responsibility as a high ranking officer of the Board to verify and confirm the truthfulness of his recommendation. It is note worthy that the petitioner has a well trained legal

mind to gauge the gravity and seriousness of the vital omission of “gold” in his recommendation dated 6/3/2019.

37. Coming to the e-mail communication, admittedly the petitioner received the e-mail communication and has noted in the communication the need to obtain the opinion of the Thiruvabharanam Commissioner and the Executive Officer of Sabarimala. This endorsement dated 9/12/2019 also is not genuine and bonafide considering his status as the President of the Travancore Devaswom Board on 9/12/2019 and his former role as Devaswom Commissioner for two spells as mentioned above. The petitioner ought to have exercised due diligence, vigilance and caution while considering the ex-facie illegal request. In fact as the supreme authority of the Board chairing the Board it was incumbent upon the petitioner to immediately alert the Board members and the other responsible officers to conduct an enquiry as to the circumstances that led to the ex-facie illegal possession of Thiruvabharanam gold by a private 3rd party which is definitely not a legal scenario contemplated by the Travancore Devasowm Board Manual regarding “Thiruvabharanams”.

38. Hence on the basis of the aforesaid discussion which is fortified by the additional report of the Chief Vigilance Officer of the Devaswom Board dated 9/10/2025 which elaborates the irregularities regarding the illegal transportation of gold cladded door frames of the Sabarimala Sree Ayyappa Temple it can only held that the investigating agency has made out a strong prima facie case against the petitioner regarding the offences alleged and in particular the offence of misconduct under Section 13 (1)(a) of the Prevention of Corruption Act 1988 as well as Section 467 of IPC.

39. The law regarding the granting of bail in the case of non-bailable offences is by now trite. Our Hon'ble High Court in the recent ruling reported in **Nassar v. Union of India 2025 KHC 410** reiterated the well settled principles that govern the granting of bail in the case of non bailable offences. Accordingly they are :-

- i) Whether there is any prima facie reason to believe that the accused has committed the offences alleged.
- ii) Nature and gravity of the charges.
- iii) Severity of the punishment in the event of conviction.
- iv) Danger of the accused absconding or fleeing if released on bail.
- v) Character, behaviour, means, position and standing of the accused.
- vi) Likelihood of the offences being repeated.
- vii) Reasonable apprehension of the witnesses being tampered with.
- viii) Danger of justice being thwarted by the grant of bail.

Our Hon'be High Court had relied on the dictum of the Hon'be Apex Court reported in State of UP V. **Amarmani Tripathi (2005)8SCC21**. These propositions of law regarding granting of bail were also reiterated by the Hon'ble Apex court in the ruling reported in **Prasanta Kumar Sarkar v. Ashis Chatterjee and another (2010) 14SCC496** . Applying the aforesaid well settled principles of law to the facts and circumstances of the present case the accused cannot be enlarged on bail at this stage of the investigation.

40. Further our Hon'ble High Court in the ruling reported in **Chandrasekharan v. State of Kerarla 2024KHC1585** dealt with the granting of bail in serious offences. It was held that there is no hard and

fast rule regarding granting or refusing of bail and that each case has to be considered on the relevant facts of each case. Our Hon'ble High Court held that in serious offences the court should not lightly entertain the bail application when there is a prima facie case. It was held that if the offence complained of is of such a nature as to shake the confidence of the public, bail should not be granted. The Hon'ble Court held that though bail is the rule and the jail is the exception, the accused involved in offences which are grave, serious and heinous fall within the exemption.

41. In the case on hand the allegations levelled against the accused are extremely grave and shocking to say the least. The spine chilling allegations levelled in this case pertain to the misappropriation of Thiruvabharanam gold of the Sree Ayyappa Temple at Sabarimalaa and that too by a high ranking officer of the Travancore Devaswom Board who was duty bound to protect and safeguard the Thiruvabharanamas of Lord Ayyappa. Hence the case of “fence eating the crop” has to be viewed with utmost seriousness and gravity considering the immense public importance and the religious sentiments of millions of devotees of Lord Ayyappa across the globe. That being so on this ground the petitioner is not entitled to be enlarged on bail. Further the importance of the “tripod test” for deciding the entitlement for bail laid down by the Hon'ble Apex Court in a catena of decisions including the recent decisions reported in **Chidambaram P V. Directorate of Enforcement, 2019KHC7201** is also pertinent in this regard. Going by the said “tripod test” the 3 parameters to be considered for granting bail are the absence of flight risk , the

possibility of the accused not tampering with the evidence and possibility of the accused not influencing the witnesses'. Applying the aforesaid tests to the facts of the present cases it is evident that the petitioner is not entitled to be enlarged on bail considering his long association with the Travancore Devaswom Board and his official standing. Further going by the decision reported in **Ram Govind Upadhyay V. Sudarshan Singh (2002)3SCC598** bail cannot be granted if there is prima facie material in support of the allegations. In the case on hand, the petitioner, a high ranking responsible officer of the Board who was duty bound to act as per the Devaswom Manual acted in blatant violation of the stipulations in the Devaswom Manual which clearly establishes his complicity in the conspiracy and the offences alleged. It is evident prima facie that he actively aided in the misappropriation of gold by the 1st accused in the crime. Importantly it is trite law that where a criminal act is performed under the colour of authority but which in reality is for the public servants own benefit or pleasure then such acts shall not be protected under the doctrine of State immunity as held by the Hon'ble Apex Court in **Parkash Singh Bandal V. State of Punjab 2006KHC1810**.

42. Significantly the petitioner in the case on hand has projected his alleged ill health and his advanced age as mitigating circumstances for the grant of bail. The petitioner has produced several medical records in support of the case including the discharge summary from KIMS Hospital Thiruvananthapuram, dated 4/2/2021 for Covid 19 treatment, and the referral card of the General Hospital Thiruvananthapuram, dated 26/1/2021 which is connected to the earlier

discharge summary .The ECG and other records of Meditrina Hospital of 2022 and 2023 and another discharge summary of Sreenethra eye care of 18/4/2025, are produced. Medical records are also produced from Dr. John Panicker's ENT centre of 2025 for Nasal Endoscopy evidencing chronic conditions of Diabetes Mellitus, Severe Sinusitis, Disc pain, Cervical Spondylitis, and Urological issues in addition to Ophthalmological issues . Considering the nature and gravity of the allegations levelled against the petitioner, the immense public importance of the matter, the religious sentiments of lakhs and lakhs of Ayypappa devotees across the globe this is not a fit case for granting bail at this crucial stage of the investigation solely on medical grounds.

43. The Hon'ble Apex Court has held in the ruling reported in **Saumya chaurasia v. Directorate of Enforcement 2023KHC1031** that the special provisions regarding granting of bail to sick or disabled persons under Section 437 of the code is not mandatory and that the Court has to exercise discretion judiciously. Further as to the medical grounds alleged it is by now trite law that mere submission alone on medical grounds will not entitle the petitioner/3rd accused to be enlarged on bail going by the recent decision of our Hon'ble High Court in the ruling reported in **Anand Kumar K.N v. State of Kerala, 2025 (3) KHC 142**.

44. It is also trite law that the Court while considering an application seeking bail is not required to weigh the evidence collected by the investigating agency meticulously and that the Court should however keep in mind the nature of accusation, the nature of evidence collected in support there of, the severity of the punishment prescribed

for the alleged offences, character of the accused, circumstances peculiar to the accused, reasonable apprehension of witnesses being tampered with, larger interest of the public etc as laid down in the ruling reported in **Tarun Kumar v. Assistant Director, Directorate of Enforcement 2023KHC6995**. It was further held that though the findings recorded by the Court while granting or refusing bail would be tentative in nature, the Court is expected to express prima facie opinion for granting or refusing bail which would demonstrate an application of mind particularly while dealing with economic offences.

45. Applying the aforesaid well settled propositions of law to the facts of the present case it can only be held that the accused is not entitled to bail at this stage of the investigation. As rightly pointed out by the investigating agency if the accused is enlarged on bail at this crucial stage of the investigation, there is every possibility of the petitioner influencing the witnesses and thwarting the investigation considering his high status, political, clout and standing in society.

Accordingly the point is answered against the petitioner holding that the petitioner is not entitled to be enlarged on bail at this stage of investigation.

In the result, the application for bail is dismissed.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open Court on this the 3rd day of December, 2025.

Sd/-
Enquiry Commissioner and Special Judge,
(Vigilance), Kollam.