

Nimi.I vs State of Kerala

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Court : Kerala

Decided On : Mar-28-2025

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Bail Appl./4250/2025

Appellant : NIMI.I

Respondent : State of Kerala

Judgement :

BAIL APPL. NO. 4241 OF 2025 CRIME NO.585/2024 OF CHAKKARAKKAL POLICE STATION, KANNUR AGAINST THE ORDER/JUDGMENT DATED 19.03.2025 IN CMP NO.337 OF

2025 OF JUDICIAL MAGISTRATE OF FIRST CLASS - III(MOBILE),KANNUR PETITIONER/5TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 OTHER PRESENT: SR PP-NOUSHAD K A , SR PP-HRITHWIK C S 28.03.2025, ALONG WITH BAIL APPL.NOS.4242/2025, 4243/2025 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.NO.4241 OF 2025 2 & BAIL APPL. NO. 4242 OF 2025 CRIME NO.589/2024 OF CHAKKARAKKAL POLICE STATION, KANNUR

AGAINST THE ORDER DATED 14.02.2025 IN BAIL APPL. NO.1670 OF 2025 OF HIGH COURT OF KERALA PETITIONER/5TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SR PP-HRITHWIK C S B.A.NO.4241 OF 2025 3 & BAIL APPL. NO. 4243 OF 2025 CRIME NO.590/2024 OF MAYYIL POLICE STATION, KANNUR AGAINST THE ORDER DATED 14.02.2025 IN BAIL APPL. NO.1667 OF 2025 OF HIGH COURT OF KERALA PETITIONER/6TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.HRITHWIK C.S - SR.PP B.A.NO.4241 OF 2025 4 & BAIL APPL. NO. 4244 OF 2025 CRIME NO.642/2024 OF MAYYIL POLICE STATION, KANNUR AGAINST THE ORDER DATED 14.02.2025 IN BAIL APPL. NO.1678 OF 2025 OF HIGH COURT OF KERALA PETITIONER/6TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.HRITHWIK C.S - SR.PP B.A.NO.4241 OF 2025 5 & BAIL APPL. NO. 4245 OF 2025 CRIME NO.657/2024 OF CHAKKARAKKAL POLICE SATION, KANNUR AGAINST THE ORDER DATED 14.02.2025 IN BAIL APPL. NO.1666 OF 2025 OF HIGH COURT OF KERALA PETITIONER/6TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.HRITHWIK C S - SR.PP B.A.NO.4241 OF 2025 6 & BAIL APPL. NO. 4246 OF 2025 CRIME NO.677/2024 OF CHAKKARAKKAL POLICE SATION, KANNUR AGAINST THE ORDER DATED 14.02.2025 IN BAIL APPL. NO.1684 OF 2025 OF HIGH COURT OF KERALA PETITIONER/6TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.NOUSHAD K.A. - SR.PP B.A.NO.4241 OF 2025 7 & BAIL APPL. NO. 4247 OF 2025 CRIME NO.292/2024 OF PINARAYI POLICE STATION, KANNUR,

AGAINST THE ORDER DATED 18.03.2025 IN CMP NO.1240 OF 2025 OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE ,THALASSERY PETITIONER/4TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.NOUSHAD K.A.- SR.PP B.A.NO.4241 OF 2025 8 & BAIL APPL. NO. 4248 OF 2025 CRIME NO.344/2024 OF PINARAYI POLICE STATION, KANNUR, AGAINST THE ORDER DATED 14.02.2025 IN BAIL APPL.

NO.1683 OF 2025 OF HIGH COURT OF KERALA PETITIONER/5TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.NOUSHAD K.A.- SR.PP B.A.NO.4241 OF 2025 9 & BAIL APPL. NO. 4249 OF 2025 CRIME NO.388/2024 OF PINARAYI POLICE STATION, KANNUR, AGAINST THE ORDER DATED 14.02.2025 IN BAIL APPL. NO.1674 OF 2025 OF HIGH COURT OF KERALA PETITIONER/6TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.NOUSHAD K.A - SR.PP B.A.NO.4241 OF 2025 10 & BAIL APPL. NO. 4250 OF 2025 CRIME NO.702/2024 OF Thalassery Police Station, Kannur AGAINST THE ORDER DATED IN 14.02.2025 BAIL APPL. NO.1676 OF 2025 OF HIGH COURT OF KERALA PETITIONER/5TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.NOUSHAD K.A - SR.PP B.A.NO.4241 OF 2025 11 & BAIL APPL. NO. 4251 OF 2025 CRIME NO.733/2024 OF Mattannur Police Station, KANNUR AGAINST THE ORDER DATED 14.02.2025 IN BAIL APPL. NO.1668 OF 2025 OF HIGH COURT OF KERALA PETITIONER/6TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.HRITHWIK C.S - SR.PP B.A.NO.4241 OF 2025 12 & BAIL APPL. NO. 4252 OF 2025 CRIME NO.744/2024 OF MATTANNUR POLICE STATION, KANNUR AGAINST THE ORDER DATED 14.02.2025 IN BAIL APPL. NO.1673 OF 2025 OF

HIGH COURT OF KERALA PETITIONER/6TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.HRITHWIK C.S - SR.PP B.A.NO.4241 OF 2025 13 & BAIL APPL. NO. 4253 OF 2025 CRIME NO.664/2024 OF PAYYANNUR POLICE STATION, KANNUR AGAINST THE ORDER DATED 14.02.2025 IN BAIL APPL. NO.1672 OF 2025 OF HIGH COURT OF KERALA PETITIONER/5TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.HRITHWIK C.S - SR.PP B.A.NO.4241 OF 2025 14 & BAIL APPL. NO. 4254 OF 2025 CRIME NO.665/2024 OF PAYYANNUR POLICE STATION, KANNUR AGAINST THE ORDER DATED 14.02.2025 IN BAIL APPL. NO.1675 OF 2025 OF HIGH COURT OF KERALA PETITIONER/4TH ACCUSED: W/O MOHAMMED SIYAD, EROSS, PANAYAMBALAM, THAZHUTHALA, KOTTIYAM.P.O., KOLLAM DISTRICT., PIN - 691571 SRI.HRITHWIK C.S - SR.PP B.A.NO.4241 OF 2025 15 & P.V.KUNHIKRISHNAN, J -----
B.A.Nos.4241, 4242, 4243, 4244, 4245, 4246, 4247, 4248, 4249, 4250, 4251, 4252, 4253 & 4254 of 2025
----- Dated this the 28th day of
March, 2025

COMMON ORDER

These Bail Applications are filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita. These Bail Applications are connected and therefore, I am disposing of these cases by a common order.

2. Petitioner in these cases are one and the

same. Petitioner is the accused in Crime Nos.702 of 2024 of Thalassery Police Station, 664 & 665 of 2024 of Payyannur Police Station, 733, & 744 of 2024 of Mattannur Police Station, 590 & 642 of 2024 of Mayyil Police Station, 292, 344, & 388 of 2024 of Pinarayi Police Station and Crime Nos.677, 657, 589 & 585 of 2024 of Chakkarakkal Police Station, registered alleging offences punishable under

Sections 406, 420, 468, 471, 465 & 34 of IPC and in Crime No.642 of 2024, the alleged offences are under Sections 318, 338, 61 and 3(5)

B.A.NO.4241 OF 2025 16 & of the Bharatiya Nyaya Sanhita (BNS), 2023. Petitioner was arrested on 12.03.2025 and she is in custody.

3. The prosecution case in all these cases are similar. It is alleged that the accused in these cases deceived the defacto complainants by falsely promising a job in Indian Railways and thus collected huge amount. It is the prosecution case that some amount is credited to the account of the petitioner also.

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

5. The counsel for the petitioner submitted that

the petitioner surrendered before the Investigating Officer as directed by this Court in Annexure A3 order and after interrogation, she was arrested on 12.03.2025. The counsel submitted that the petitioner is a lady and her husband is suffering from different illness. She is ready to co-operate with the investigation, indefinite incarceration of the petitioner is not necessary. It is also submitted that the interrogation is already over. B.A.NO.4241 OF 2025 17 &

6. Public Prosecutor opposed the bail application. The Public Prosecutor submitted that huge amount is credited to the account of the petitioner and she is also involved in the scam.

7. This Court considered the contention of the

petitioner and the Public Prosecutor. It is true that the allegations against the petitioner is very serious. It is surprising to see that people are paying huge amount for getting back door appointment to strangers. It is fundamental that an appointment in Railway will be done only through the procedure prescribed by the Railway Recruitment Board. How this defacto complainants paid this huge amount to

strangers for getting appointment in the Railway is surprising. I don't want to make an observation about the same. Arrest of the petitioner is recorded in all these

cases. She is in custody from 12.03.2025.

8. 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 B.A.NO.4241 OF 2025 18 & 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 exception so as to ensure that the accused has the opportunity of securing fair trial.

9. Moreover, in Jalaluddin Khan v. Union of India [2024 KHC 6431], the Hon'ble Supreme Court observed that:

21. Before we part with the Judgment, we must mention here that the Special Court and the High Court did not consider the material in the charge sheet objectively. Perhaps the focus was more on the activities of PFI, and therefore, the appellant's case could not be properly appreciated. When a case is made out for a grant of bail, the Courts should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the law. "Bail is the rule

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and jail is an exception" is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Art.21 of our Constitution. (underline supplied)

10. In *Manish Sisodia v. Directorate of Enforcement* [2024 KHC 6426], also the Hon'ble Supreme Court observed that:

53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well - settled principle of law that bail is not to be withheld as a punishment. From our B.A.NO.4241 OF 2025 20 &

experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non - grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception". 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:

1. Petitioner shall be released on bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the B.A.NO.4241 OF 2025 21 & satisfaction of the jurisdictional Court.

2. The petitioner shall appear before the

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

3. Petitioner shall not leave India without permission of the jurisdictional Court.

4. Petitioner shall not commit an offence similar to the offence of which she is accused, or suspected, of the commission of which she is suspected.

5. The observations and findings in this

order is only for the purpose of deciding

this bail application. The principle laid down by this Court in Anzar Azeez v. State B.A.NO.4241 OF 2025 22 & of Kerala [2025 SCC OnLine KER 1260] is applicable in this case also.

6. If any of the above conditions are

violated by the petitioner, 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 there is any violation of the above conditions. Sd/- P.V.KUNHIKRISHNAN JUDGE MSA

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