

Althaf, vs State of Kerala,

Althaf, vs State of Kerala,

SooperKanoon Citation : sooperkanoon.com/1324637

Court : Kerala

Decided On : May-31-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./3667/2024

Appellant : Althaf,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYAISHTA, 1946 BAIL APPL. NO. 2306 OF 2024 CRIME NO.77/2024 OF Vythiri Police Station, Wayanad PETITIONER/S: AKASH S.D,AGED 22 YEARS,S/O SARATHCHANDRAN, VIJAYAMMA NIVAS, KONJIRAVILA, MANAKKAD P.O KALIPPANKULAM, MANAKKAD VILLAGE,THIRUVANANTHAPURAM, PIN - 695009 BY ADVS. S.K.ADHITHYAN REUBEN CHARLY SHAHINA NOUSHAD RESPONDENT/S:

1 STATE OF KERALA,REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 THE

STATION HOUSE OFFICER,VYTHIRI POLICE STATION,WAYANAD,
PIN - 673576 3 CENTRAL BREAUE OF INVESTIGAION
,REPRESENTED BY ITS SUPERINTENDENT OF POLICE, COCHIN
682017, IMPLEADED AS ADDL R3 AS PER ORDER DATED 16/04/24
IN CRL MA 2/2024 4 SHEEBA M.R ,W/O. JAYAPRAKASH T.,
PAVITHRAM KUNNUMPURATHU VEEDU, KURAKODE, VINOD
NAGAR, NEDUMANGAD P.O., THIRUVANANTHAPURAM 695 541 IS
IMPLEADED AS ADDL R4 AS PER

ORDER DATED 14/05/24 IN CRL MA 4/24.

BY ADVS. SAJITH KUMAR V.,VIVEK A.V.,AMMU M.,SREEHARI V.S. Dr.Sri.K.P
Satheesan, Sri.Bharath Mohan, Sri.Gokul.D THIS BAIL APPLICATION HAVING
FINALLY HEARD ON 28.5.2024 AND THE COURT ON 31.5.2024 ALONG WITH
BA NO.2754/2024 AND CONNECTED CASES DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST
DAY OF MAY 2024 / 10TH JYAISHTA, 1946 BAIL APPL. NO. 2754 OF 2024
CRIME NO.77/2024 OF Vythiri Police Station, Wayanad PETITIONER/S:
BILLGATE JOSHVA THANNIKKODE,AGED 23 YEARS S/O JOSE V
THANNIKODE THANNIKODE HOUSE CHUNGAM SULTHAN BATHERY
WAYANAD, PIN - 673592 BY ADVS. RILGIN V.GEORGE NAZRIN BANU
AKSHARA K.P. P.DEEPAK (SR.) RESPONDENT/S:

1 STATE OF KERALA,REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 CENTRAL
BUREAU OF INVESTIGATION, 6TH FLOOR, LODHI ROAD, PLOT NO.
5-B, JAWAHARLAL NEHRU STADIUM MARG, CGO COMPLEX, NEW
DELHI, REPRESENTED BY THE DIRECTOR, PIN 110 003 IS
IMPLEADED AS R2 AS PER ORDER DATED 8-4-24 IN CRL MA 1/24 3
SHEEBA M. R. ,W/O. JAYAPRAKASH T., PAVITHRAM
KUNNUMPURATHU VEEDU, KURAKODE, VINOD NAGAR,

NEDUMANGAD P.O., THIRUVANANTHAPURAM, PIN: 695 541 IS IMPEADED AS RESPONDENT 3 AS PER ORDER DTD 14-5-23 IN CRL MA 2/24 BY ADVS. SAJITH KUMAR V.,VIVEK A.V.,AMMU M.,SREEHARI V.S. Dr.Sri.K.P Satheesan, Sri.Bharath Mohan, Sri.Gokul.D THIS BAIL APPLICATION HAVING FINALLY HEARD ON 28.5.2024 AND THE

COURT ON 31.5.2024 ALONG WITH BA NO.2306/2024 AND CONNECTED CASES DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYAISHTA, 1946 BAIL APPL. NO. 3012 OF 2024 CRIME NO.77/2024 OF Vythiri Police Station, Wayanad PETITIONER/S: SRI.NASEEF .V,AGED 24 YEARS,S/O NASER .V ,ALNAS HOUSE ,MOODADI VILLAGE , THIKKODI (PO), KOZHIKODE (DT), PIN -, PIN - 673529 BY ADVS. P.MARTIN JOSE,E.ADITHYAN,SAFA C.M. NESAMUDHEEN,P.PRIJITH THOMAS P.KURUVILLA R.GITHESH MANJUNATH MENON SACHIN JACOB AMBAT AJAY BEN JOSE HARIKRISHNAN S. ANNA LINDA EDEN RESPONDENT/S:

1 STATE OF KERALA,REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 SHEEBA M. R. ,AGED 44 YEARS,W/O. JAYAPRAKASH T., PAVITHRAM KUNNUMPURATHU VEEDU, KURAKODE, VINOD NAGAR, NEDUMANGAD P.O., THIRUVANANTHAPURAM, PIN: 695 541 IS IMPEADED AS ADDL. R2 AS PER ORDER DATED 14/05/2024 IN CRL.MA.3/2024. CENTRAL BUREAU OF INVESTIGATION ,REPRESENTED BY ITS SUPERINTENDENT OF POLICE, COCHIN 682017,

BY ADVS. SAJITH KUMAR V.,VIVEK A.V.,AMMU M.,SREEHARI V.S. Dr.Sri.K.P Satheesan, Sri.Bharath Mohan, Sri.Gokul.D THIS BAIL APPLICATION HAVING

FINALLY HEARD ON 28.5.2024 AND THE COURT ON 31.5.2024 ALONG WITH BA NO.2754/2024 AND CONNECTED CASES DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYASHTA, 1946 BAIL APPL. NO. 3023 OF 2024 CRIME NO.77/2024 OF Vythiri Police Station, Wayanad PETITIONER/S: REHAN BINOY, AGED 20 YEARS, S/O BINOY P. ALIAS, PALAKKUDI HOUSE, PONGUMOOL, CHENATHI, CRA 179, TC 9/345, MEDICAL COLLEGE P.O, THIRUVANANTHAPURAM, PIN - 695011 BY ADVS. S.RAJEEV, V.VINAY M.S.ANEER, PRERITH PHILIP JOSEPH ANILKUMAR C.R., K.S.KIRAN KRISHNAN NOURIN S. FATHIMA RESPONDENT/S:

1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 2 CENTRAL BUREAU OF INVESTIGATION, REP. BY STANDING COUNSEL, HIGH COURT OF KERALA, ERNAKULAM - 682031, (IS IMPEADED AS RESPONDENT 2 AS PER ORDER DTD 23.4.24 3 SHEEBA M.R , W/O. JAYAPRAKASH T., PAVITHRAM KUNNUPURATHU VEEDU, KURAKODE, VINOD NAGAR, NEDUMANGAD P.O.,

THIRUVANANTHAPURAM IS IMPEADED AS RESPONDENT 3 AS PER ORDER

DTD 14-5-24 IN CRL MA 5/24 BY ADVS. SAJITH KUMAR V., VIVEK A.V., SREEHARI V.S., AMMU M. Dr.Sri.K.P Satheesan, Sri.Bharath Mohan, Sri.Gokul.D THIS BAIL APPLICATION HAVING FINALLY HEARD ON 28.5.2024 AND THE COURT ON 31.5.2024 ALONG WITH BA NO.2754/2024 AND CONNECTED CASES DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYASHTA, 1946 BAIL APPL. NO. 3302 OF 2024 CRIME NO.077/2024 OF Vythiri Police Station, Wayanad PETITIONER/S: N. ASIF KHAN,AGED 23 YEARS,SON OF NOUSHAR KHAN, ASIF MANZIL, KIZHAKKEPURAM P.O., ATIROOR, VARKALA, THIRUVANANTHAPURAM, PIN - 695310 BY ADVS. S.M.PRASANTH,K.RAMAKUMAR (SR.),T.RAMPRASAD UNNI ASWINI SANKAR R.S. SHEHIN S. RESPONDENT/S:

1 STATE OF KERALA,REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 THE STATION HOUSE OFFICER,VYTHIRI POLICE STATION, VYTHIRI, WAYANAD, PIN - 673576 3 THE CENTRAL BUREAU OF INVESTIGATION,REPRESENTED BY THE SPECIAL PROSECUTOR, HIGH COURT OF KERALA, COCHIN, PIN - 682031 4 SHEEBA M.R ,W/O. JAYAPRAKASH T., PAVITHRAM KUNNUMPURATHU VEEDU, KURAKODE, VINOD NAGAR, NEDUMANGAD P.O.,

THIRUVANANTHAPURAM. IS IMPLEADED AS RESPONDENT 4 AS PER ORDER

DTD 14-5-24 IN CRL MA 2/24 BY ADVS. SAJITH KUMAR V.,VIVEK A.V.,SREEHARI V.S.,AMMU M. Dr.Sri.K.P Satheesan, Sri.Bharath Mohan, Sri.Gokul.D THIS BAIL APPLICATION HAVING FINALLY HEARD ON 28.5.2024 AND THE COURT ON 31.5.2024 ALONG WITH BA NO.2754/2024 AND CONNECTED CASES DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYASHTA, 1946 BAIL APPL. NO. 3535 OF 2024 CRIME NO.77/2024 OF Vythiri Police Station, Wayanad PETITIONER/S: SREEHARI.R.D, AGED 23 YEARS S/O P. RAJESH, SREENILAYAM HOUSE, PAYATTADIPACHA, PALODE P.O, NANNIYODE VILLAGE,THIRUVANNATHAPURAM, PIN - 695562 BY ADVS. M.R.SARIN

P.SANTHOSHKUMAR (KARUMKULAM) R.K.CHIRUTHA PARVATHI KRISHNA SAUMYA.P.S ASHA MARY KURIAN LEKSHMI S.R RESPONDENT/S: 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 2 CENTRAL BUREAU OF INVESTIGATION, OFFICE OF CENTRAL BUREAU OF INVESTIGATION REPRESENTED BY ITS SUPERINTENDENT OF POLICE KOCHIN Dr.Sri.K.P Satheesan, Sri.Bharath Mohan, Sri.Gokul.D THIS BAIL APPLICATION HAVING FINALLY HEARD ON 28.5.2024 AND THE COURT ON 31.5.2024 ALONG WITH BA NO.2754/2024 AND CONNECTED CASES DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYASHTA, 1946 BAIL APPL. NO. 3506 OF 2024 CRIME NO.RC/0502024S0002/2024 OF 2024 SC II DELHI POLICE STATION AGAINST THE ORDER/JUDGMENT DATED IN CMP NO.549 OF 2024 OF JUDICIAL MAGISTRATE OF FIRST CLASS - I, KALPETTA PETITIONER/S:

1 ABHISHEK,AGED 23 YEARS,S/O SAJI P K,PAZAYIDATH HOUSE, KARUNAPURAM,RAMAKKALMED, IDUKKI -, PIN - 685552 2 DONESDAYI,AGED 23 YEARS,S/O DAYI JOHN,THURAKKAL PUTHANPURAYIL HOUSE,KOTHAKUTHI, MUTHALAKKODAM P.O,KARIKKODE AMSOM,THODUPUZHA,IDDUKI -, PIN - 685605 BY ADVS. S.RAJEEV,V.VINAY,M.S.ANEER,PRERITH PHILIP JOSEPH ANILKUMAR C.R.,K.S.KIRAN KRISHNAN,NOURIN S. FATHIMA

RESPONDENT/S:

1 CENTRAL BUREAU OF INVESTIGATION,CENTRAL BUREAU OF INVESTIGATION, REP. BY STANDING COUNSEL ,HIGH COURT OF KERALA, ERNAKULAM - (CRIME NO. RC/0502024S0002 OF SC II DELHI POLICE STATION), PIN - 682031 2 SHEEBA M.R.,W/O. JAYAPRAKASH T., PAVITHRAM KUNNUMPURATHU VEEDU,

KURAKODE, VINOD NAGAR, NEDUMANGAD P.O., THIRUVANANTHAPURAM, IS IMPEADED AS ADDL R2 AS PER ORDER DATED BY ADVS. SAJITH KUMAR V.,VIVEK A.V.,AMMU M.,SREEHARI V.S. Dr.Sri.K.P Satheesan, Sri.Bharath Mohan, Sri.Gokul.D THIS BAIL APPLICATION HAVING FINALLY HEARD ON 28.5.2024 AND THE

COURT ON 31.5.2024 ALONG WITH BA NO.2754/2024 AND CONNECTED CASES DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYASHTA, 1946 BAIL APPL. NO. 3568 OF 2024 CRIME NO.77/2024 OF Vythiri Police Station, Wayanad PETITIONER/S: AKHIL.K.,AGED 28 YEARS,S/O VELAYUDHAN.K, KOTTAYIL HOUSE, NEW ROAD, AMAYUR POST, PATTAMBI TALUK PALAKKAD DISTRICT, PIN - BY ADVS. P.K.VARGHESE M.T.SAMEER DHANESH V.MADHAVAN K.R.ARUN KRISHNAN JERRY MATHEW REGHU SREEDHARAN RAMEEZ M. AZEEZ RESPONDENT/S:

1 STATE OF KERALA,REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 SHEEBA M.R (IMPEADED AS ADDL R2) W/O. JAYAPRAKASH T., PAVITHRAM KUNNUMPURATHU VEEDU, KURAKODE, VINOD NAGAR, NEDUMANGAD P.O., THIRUVANANTHAPURAM. (IMPEADED AS ADDL R2 AS PER ORDER DTD 14/5/24 IN CRL MA 1/24) CENTRAL BUREAU OF INVESTIGATION ,REPRESENTED BY ITS 3 SUPERINTENDENT OF POLICE, COCHIN 682017, BY ADVS. SAJITH KUMAR V., VIVEK A.V.,SREEHARI V.S.,AMMU M. Dr.Sri.K.P Satheesan, Sri.Bharath Mohan, Sri.Gokul.D THIS BAIL APPLICATION HAVING FINALLY HEARD ON 28.5.2024 AND THE

COURT ON 31.5.2024 ALONG WITH BA NO.2754/2024 AND CONNECTED CASES DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYASHTA, 1946 BAIL APPL. NO. 3607 OF 2024 CRIME NO.77/2024 OF Vythiri Police Station, Wayanad PETITIONER/S: AMAL IHSAN, AGED 23 YEARS S/O.NOUSHAD.A, ARY HOUSE, CLUB KUNNU VTC, MANANTHAVADY POST, WAYAND DISTRICT, KERALA, PIN - 670645 BY ADVS. V.SHYAM SAHEERA K. P.ARUN RESPONDENT/S:

1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 2 CENTRAL BUREAU OF INVESTIGATION, REP BY ITS SUPERINTENDENT OF POLICE, KOCHI, ERNAKULAM, PIN - 3 SHEEBA M. R., W/O. JAYAPRAKASH T., PAVITHRAM KUNNUMPURATHU VEEDU, KURAKODE, VINOD NAGAR, NEDUMANGAD P.O., THIRUVANANTHAPURAM ((IMPLEADED AS ADDL R3 AS PER ORDER DTD BY ADVS. SAJITH KUMAR V. VIVEK A.V. AMMU M. SREEHARI V.S. Sri.Ramkumar (Sr.), Dr.Sri.K.P Satheesan, Sri.Bharath Mohan, Sri.Gokul.D

THIS BAIL APPLICATION HAVING FINALLY HEARD ON 28.5.2024 AND THE COURT ON 31.5.2024 ALONG WITH BA NO.2754/2024 AND CONNECTED CASES DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYASHTA, 1946 BAIL APPL. NO. 3667 OF 2024 CRIME NO.77/2024 OF Vythiri Police Station, Wayanad PETITIONER/S:

1 ALTHAF,AGED 21 YEARS,S/O ASHRAF. S, CHETYAN VILAKON
THEKKUMBHAGOM POST, PARAVOOR, KOLLAM, KERALA, PIN -
691319 2 SAUD RASIL EK,AGED 21 YEARS,S/O ABDUL MAJEED
EDATHOLAKURIKKAL HOUSE, KANNATTIPPADI POST, VENGARA,
MALAPURAM DISTRICT, PIN - 676304 3 ADITHYAN,AGED 20
YEARS,S/O LATE VIJAYAN, PUTHIYOTTUMKARA HOUSE,
AVADIKKA POST,PANTHIRIKKARA PERAMBRA, KOZHIKODE, PIN -
673528 4 MUHAMMED DANISH,AGED 23 YEARS,S/O NOUSHAD ALI,
MEESATTA HOUSE, PATHAPIRIYAM, EDAVANNA, MALAPURAM
DISTRICT, PIN - 676123 BY ADVS. T.SHAJITH,NAJAH EBRAHIM V.P.

RESPONDENT/S:

1 STATE OF KERALA,REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2
SHO,VYTHIRI POLICE STATION,KALPATTA, WAYANAD, PIN - 673576
3 SHEEBA M.R ,W/O. JAYAPRAKASH T., PAVITHRAM
KUNNUPURATHU VEEDU, KURAKODE, VINOD NAGAR,
NEDUMANGAD P.O., HIRUVANANTHAPURAM. IS IMPLEADED AS
RESPONDENT 3 AS PER ORDER DTD 14-5-24 IN CRL MA 1/24 4
CENTRAL BUREAU OF INVESTIGATION, REP BY ITS
SUPERINTENDENT OF POLICE, KOCHI, ERNAKULAM, PIN - 682017
BY ADVS. SAJITH KUMAR V.,VIVEK A.V.,SREEHARI V.S., AMMU M.
Dr.Sri.K.P Satheesan, Sri.Bharath Mohan, Sri.Gokul.D

THIS BAIL APPLICATION HAVING FINALLY HEARD ON 28.5.2024 AND THE
COURT ON 31.5.2024 ALONG WITH BA NO.2754/2024 AND CONNECTED
CASES DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST
DAY OF MAY 2024 / 10TH JYASHITA, 1946 BAIL APPL. NO. 3705 OF 2024

CRIME NO.RC0502024S0002/2024 OF 2024, CBI, SC-II, DELHI, PETITIONER/S: ARUN K@ARUN KELOTH,AGED 23 YEARS S/O. PANKAJAKSHAN N.E,KELOTH, THAZHE KANIYARAM, MANANTHAVADY P.O, MANANTHAVADY VILLAGE, WAYANAD, KERALA,, PIN - 670645 BY ADVS. SANTHARAM.P REKHA ARAVIND P.G.GOKULNATH RESPONDENT/S:

1 CENTRAL BUREAU OF INVESTIGATION, SC-II DELHI,PLOT NO. 5-B, 2ND FLOOR, A-WING, CGO COMPLEX, NEW DELHI, PIN - 110003
2 STATE OF KERALA,REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 3 SHEEBA M.R, W/O. JAYAPRAKASH T., PAVITHRAM KUNNUMPURATHU VEEDU, KURAKODE, VINOD NAGAR, NEDUMANGAD P.O., THIRUVANANTHAPURAM, IS IMPEADED AS ADDL R3 AS PER ORDER DATED BY ADVS. SAJITH KUMAR V.,VIVEK A.V.,SREEHARI V.S.,AMMU M. Dr.Sri.K.P Satheesan, Sri.Bharath Mohan, Sri.Gokul.D

THIS BAIL APPLICATION HAVING FINALLY HEARD ON 28.5.2024 AND THE COURT ON 31.5.2024 ALONG WITH BA NO.2754/2024 AND CONNECTED CASES DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYASHTA, 1946 BAIL APPL. NO. 4028 OF 2024 CRIME NO.77/2024 OF Vythiri Police Station, Wayanad PETITIONER/S: AMEEN AKBAR ALI U,AGED 25 YEARS S/O. ISHQUE U, RESIDING AT ULAVAN HOUSE, NELLIJUTHU POST, PAYYANADU, ERANADU MALAPPURAM, PIN - 676122 BY ADVS. N.ANAND N.KRISHNA PRASAD RAJESH O.N. RESPONDENT/S: 1 CENTRAL BUREAU OF INVESTIGATION , REPRESENTED BY ITS DIRECTOR, HEAD OFFICE T PLOT NO. 5B,6TH FLOOR, CGO COMPLEX, LODHI ROAD, NEW DELHI, PIN - 110003 2 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - Dr.Sri.K.P Satheesan, Sri.Bharath Mohan, Sri.Gokul.D THIS BAIL APPLICATION

HAVING FINALLY HEARD ON 28.5.2024 AND THE COURT ON 31.5.2024
ALONG WITH BA NO.2754/2024 AND CONNECTED CASES DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST
DAY OF MAY 2024 / 10TH JYAISHTA, 1946 BAIL APPL. NO. 4082 OF 2024
CRIME NO.2(S)/2024 OF 2024 , CBI, NEW DELHI, PETITIONER/S:

1 KASHINATHAN R.S,AGED 25 YEARS S/O RAJEEV S.,
THIRUVATHIRA, KIZHAKKUM BHAGAM, CHITHARA POST, KOLLAM.,
PIN - 691559 2 SINJO JOHNSON,AGED 22 YEARS S/O JOHNSON
GEORGE, ELAVANKOTTU SNEHABHAVAN, ODANAVATTAM POST,
KOLLAM., PIN - 691512 3 AJAY J,AGED 25 YEARS S/O JAYAKUMAR,
KRISHNAVILASAM HOUSE, PANNIVIZHA, ANANDAPALLI, ADOOR,
PATHANAMTHITTA, PIN - 691525 BY ADVS. V.JOHN SEBASTIAN
RALPH VISHNU CHANDRAN RALPH RETI JOHN APPU BABU
GIRIDHAR KRISHNA KUMAR GEETHU T.A. APOORVA RAMKUMAR
MARY GREESHMA

RESPONDENT/S: CENTRAL BUREAU OF INVESTIGATION, REPRESENTED
BY SPL. PUBLIC PROSECUTOR, CBI, HIGH COURT OF KERALA,
ERNAKULAM., PIN - 682031 Dr.Sri.K.P Satheesan, Sri.Bharath Mohan,
Sri.Gokul.D THIS BAIL APPLICATION HAVING FINALLY HEARD ON 28.5.2024
AND THE COURT ON 31.5.2024 ALONG WITH BA NO.2754/2024 AND
CONNECTED CASES DELIVERED THE FOLLOWING: CR

C.S.DIAS, J.

===== Dated this the 31
May, 2024 st

COMMON ORDER

The accused 1 to 19 in Crime No.RC-0502024- S0002/SC-II/CBI,

New Delhi, (initially numbered as Crime No.77/2024 of the Vythiri Police Station, Wayanad), have filed these applications under Sections 439 of the Code of Criminal Procedure (Cr PC) to enlarge them on bail. The above crime has been registered against the petitioners for allegedly committing the offences punishable under Sections 120B, 341, 323, 324, 342, 355, 306 and 506 of the Indian Penal Code ('IPC', in short) and Section 4 r/w Section 3 of the Kerala Prohibition of Ragging Act, 1998 ('Act' for brevity). The accused Nos.13, 14, 15, 16, 17 and 18 were arrested on 28.2.2024, accused No.1 was arrested on 29.2.2024, accused Nos.3, 4, 6 and 7 were arrested on 1.3.2024,

accused Nos.2, 8, 9, 10, 11 and 12 were arrested on 2.3.2024, accused No.5 was arrested on 3.3.2024 and accused No.19 was arrested on 9.3.2024. As the applications arise out of the same crime, they were consolidated, jointly heard and are being disposed of by this common

order.

2. The gravamen of the prosecution case, as per the final report filed by the CBI before the Chief Judicial Magistrate Court, Ernakulam, is as follows:

(a) Crime No.77/2024 was registered by the Vythiri Police Station,

Wayanad, on 18.2.2024, under Section 174 Cr PC, on a written complaint filed by Sri.Krishnalal, a student of the College of Veterinary and Animal Sciences ('COVAS' for brevity), Pookkode, Wayanad, complaining that his classmate named Sidharthan J.S (deceased) was found hanging in the bathroom of the dormitory of the Men's College Hostel of COVAS. At the request of the Police and certain complaints received by the COVAS by E- mail, an inquiry was conducted by the Anti-Ragging Squad of COVAS. The inquiry revealed that the deceased was manhandled by his classmates and senior students on the intervening night of 16.2.2024 and 17.2.2024 at the

Men's Hostel due to his misbehaviour towards one of his female classmates (name not revealed for the sake of privacy and, hereinafter referred to as 'X'). The

Anti-Ragging Squad of COVAS concluded that the deceased was subjected to brutal physical assault and public ragging. The report was forwarded to the Police on 22.2.2024, reporting that 12 students (accused Nos.1 to 12) had ragged the deceased. Based on the report, the first information report was registered against the accused Nos.1 to 12 for allegedly committing the offences punishable under Sections 341, 323, 324, 342 and 306 r/w Section 34 of the IPC and Section 4 r/w Section 3 of the Act.

(b) The case was transferred from the Sub Divisional Magistrate to the Judicial First-Class Magistrate Court, Kalpetta, Wayanad. In the investigation conducted by the Police, it was revealed that eight other persons were also involved in the crime. Consequently, twenty persons were arrested, and Sections 120B, 355 and 506 of the IPC were also incorporated.

(c) Pursuant to G.O (MS) No.70/2024/Home dated 9.3.2024 issued by the Government of Kerala and subsequent notification

FNo.228/21/2024/AVD-II dated 5/4/2024 of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), Government of India, the investigation in the crime was transferred to the CBI. The case was re-registered as RC No.0502024S0002 under Sections 120-B, 341, 323,324, 342, 355, 306 and 506 r/w Section 34 of IPC and under Section 4 r/w Section 3 of the Act.

(d) The investigation has revealed that the deceased had cleared the NEET(UG) examination and secured admission to COVAS. Since the rooms in the Men's Hostel were vacant, the deceased started residing in the Men's Hotel before entering the second year. He was allotted room No.2 in the dormitory.

(e) On 12.2.2024, the deceased and his classmates carried out decorations in the auditorium to celebrate Valentine's Day on 14.2.2024. After the decoration work, when the students were preparing to leave, the deceased told 'X' that he wanted to have a private conversation with her. He requested one of their

classmates to leave for the hostel. Thereafter, the deceased had a conversation with X. But, the deceased misbehaved with 'X' by touching her inappropriately twice, which she resisted and she left to the Hostel. Then, the deceased followed X and apologised to her.

However, on reaching the Ladies' Hostel, the deceased again touched her inappropriately. She again resisted the same and she ran into the hostel.

(f) On the intervening night of 12.2.2024 and 13.2.2024, 'X' informed about the incident to accused No.12 and a third-year student. In the meantime, the deceased again apologised to 'X' over WhatsApp.

(g) On 13.2.2024, accused No.12 told one Akshai C.R that he wanted

to beat the deceased. After the Valentines Day celebration, accused Nos.9, 11, 12, and 13 had a discussion regarding the deceased's misbehaviour with 'X', and they decided to question the deceased.

(h) On 15.2.2024, the classes were suspended due to the Inter-Batch

athletic meet. The deceased left to Thiruvananthapuram by train. When the deceased reached Ernakulam, he received a telephone call from accused Nos.10, 12, and 13 requesting him to return to the hostel to settle the issue with 'X'. Consequently, the deceased alighted at Ernakulam and returned to the college on 16.2.2024.

(i) On 16.2.2024, at around 21.30 hours, accused Nos.9, 10, 11 and 12, accompanied by other classmates, took the deceased to a hillock, opposite the road of the Men's hostel, and questioned the deceased about

his misbehaviour. During the questioning, accused No.2 slapped the deceased and instructed the others to take the deceased to the hostel, where he would deal with him.

(j) At around 22.50 hours, the accused took the deceased to room

No.21 and made the deceased again confess regarding his misbehaviour. Accused Nos.2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 17 and 18 physically assaulted the deceased using a leather belt, cable wire of a glue gun, and with their hands and legs. The deceased was made to remove his trousers and shirt and was made to remain in his undergarments. Accused No.2 brutally assaulted the deceased with belts and hands; accused No.5 slapped, kicked and beat the deceased with the wire of a glue gun; accused No.7 assaulted the deceased with a belt; accused No.6 assaulted the deceased with hands; accused Nos.3, 4, 8, 9, 10 and 11 slapped the deceased with hands and accused Nos.5 and 6 provoked the other students against the deceased. The accused assaulted, intimidated and humiliated the deceased till midnight of 17.2.2024.

(k) Later, accused No.2 forcefully took the partially naked deceased to the courtyard of the Men's hostel, and accused Nos.2, 5, 10, and 11 called

out to the inmates of the hostel and questioned the deceased. Accused Nos.2, 4, 5, 6, 7, 9, 10, 11, 12, 14, 15, 16 and 17 humiliated the deceased and compelled him to confess his guilt loudly in the presence of the inmates of the hostel. The deceased was also prevented from getting up from the ground. Accused No.7 threatened the junior students by proclaiming that if any of them did similar acts, they would face similar consequences. The assault, restraint/confinement, humiliation/harassment of the deceased lasted till 1 a.m. on 17.2.2024.

(l) The deceased was taken to the dormitory on the first floor. Accused No.2 threatened to socially isolate the deceased, which caused

him mental trauma. Accused No.1 slapped the deceased. The deceased slept the whole day on 17.2.2024 in room No.5 without taking any food. On 18.2.2024, the deceased asked for a towel from his classmate Kishanlal and went to the bathroom of the dormitory, where he hanged himself from the iron grill fitted in the ventilation window of the bathroom.

(m) The body of the deceased was taken to the Taluk Headquarters Hospital, Sulthan Bathery, Wayanad and the postmortem was conducted.

The postmortem findings are consistent with the death due to hanging. The deceased sustained multiple blunt injuries, including a tram-line contusion, aged 2-3 days. The investigation has established that the accused have committed the above offences. Hence, the accused may be tried in accordance with law.

3. Heard; Senior Advocates Sri.K.Ramkumar, Sri.S.Sreekumar and

Sri.S.Deepak, and Advocates Sri.S.Rajeev, Sri.John.S.Ralph.V, Sri.Varghese, Sri.Santharam, Sri.T.Shajith, Sri.V.Shyam and Sri.N.Anand, the learned Counsel appearing for the petitioners; Dr.K.P.Satheesan, the learned Senior Counsel appearing for the CBI and Sri.Sajith Kumar.V, the learned Counsel appearing for the de-facto complainant/intervenor.

4. The arguments for the petitioners were led by Sri.K.Ramkumar,

who submitted that the only non-bailable offence alleged against the petitioners is Section 306 of the IPC. He argued that a reading of the FIR and the final report would undoubtedly demonstrate that the offence under Secs.306 is not attracted to the facts of the case because there is no allegation that the deceased had abetted the deceased to commit suicide. He contended that the deceased had inappropriately groped 'X' thrice, and

she complained of the deceased's misbehaviour to her classmates, Seniors and the Internal Complaints Committee, which in turn caused embarrassment to the deceased. It is out of this embarrassment and shame that the deceased took the extreme step of suicide. The learned Senior Counsel placed reliance on the decisions of the Hon'ble Supreme Court in *Prabhat Kumar Mishra @ Prabhat Mishra v. State of U.P* [(2024) 3 SCC 665] and *Y v. State of Rajasthan*, [(2022) 9 SCC 269] to fortify his contentions. He submitted that the petitioners have been in judicial custody for nearly 90 days, the investigation in the case is complete, and the final report has been laid. The petitioners are all students without any criminal antecedents. They are neither influential nor affluent persons to intimidate the witnesses or flee from justice. Moreover, the prospects of conviction in the case are bleak. Hence, the petitioners may be enlarged on bail.

3.1 The above contentions were reiterated by Sri.S.Sreekumar and Sri.S.Deepak.

3.2 Sri. S. Rajeev drew the attention of this Court to paragraph 16.20 of the final report, wherein it is stated that the role of the other persons is to be established and further investigation is required to be conducted.

Therefore, he contended that the final report is incomplete. He placed reliance on the decision of the Hon'ble Supreme Court in *Ritu Chhabaria v. Union of India* [(2023) SCC OnLine 509] and argued that the accused are entitled to statutory bail since an incomplete charge is filed to defeat the indefeasible right of the accused to statutory bail provided under Section 167(2) of the Cr PC. The learned counsel also drew the attention of this Court to the statement of X (PW1) recorded on 11.4.2024, wherein it is recorded that the deceased had inappropriately behaved towards her. He further submitted that the local Police had registered the FIR solely on the basis of the report of the Anti-Ragging Squad without any independent investigation, which shows the hollowness of the crime. Moreover, the accused No.20 has been granted statutory bail. He relied on the decisions of this Court in *Badusha Nishad v. State of Kerala and others* [2018 (4) KLJ 33], *Dr.Radhika Kapadia v. State of Kerala and others* [2024 (2) KLT 635], *Sunil Kumar v. State of Kerala* [2023 (5) KLT 839], *Shyam Krishna K.R v. State of Kerala & another* [2024 ICO 643], *Sindhu Paul and another v. State of Kerala and others* [2017 (4) KLJ 882] and the decision of the Hon'ble Supreme Court in *Naresh Kumar v. State of Haryana* [2024 (3) SCC 573] and *Sanjay Chandra v. CBI* [(2012) 1 SCC

40], to canvass the position that the prosecution has miserably failed to establish the necessary ingredients to attract the offences under Sections 306 and 107 of the IPC. He also contended that the accused are youth in the age group of 20-24 years and are languishing in jail for nearly 90 days. They have missed their classes and may lose an academic year. It is only due to the overt act of the deceased, who misbehaved with 'X', that he committed suicide. He prayed that the applications may be allowed.

3.3. Sri.John. S. Ralph drew the attention of this Court to the

postmortem report of the deceased detailing the 18 antemortem injuries. He contended that injuries 1 to 6, the fatal injuries, were suffered by the deceased due to hanging. The other 12 injuries are minor injuries. According to him, the postmortem report by itself disproves the prosecution's case that the accused had brutally assaulted the deceased because there is no corresponding injury on the body of the deceased. The opinion of the Asst.Surgeon that the deceased lost his life due to hanging and the blunt injuries of 2-3 days establishes that the accused are innocent. He also relied on the statement of the mother of the deceased (CW81) to demonstrate that the deceased had not complained to his mother regarding

any brutality. He also stated that a reading of the final report would establish that the alleged mensrea of the accused was only to make the deceased apologise for his misdeeds, and there is no element of abetment for the deceased to commit suicide. He submitted that the petitioners are entitled to the benefit of innocence and may be enlarged on bail.

3.4 The other learned counsel for the petitioners adopted the above arguments and prayed that the petitioners may be released on bail.

4. Dr.K.P.Satheesan strenuously opposed the applications. He

contended that the petitioners have committed a very heinous and gruesome crime of abetting the suicide of the deceased. The petitioners had brutally assaulted the deceased at the nearby hillock and, thereafter, took him to the courtyard of the hostel and conducted a mock trial in the presence of the juniors and classmates of the deceased. The accused humiliated and insulted the deceased, which led him to resort to the extreme step. He contended that even though a final report has been laid, the Investigating Officer is proposing to conduct a further investigation to ascertain the complicity of the other persons involved in the crime. He stated that if the petitioners are released on bail, there is every likelihood of them tampering with the evidence and intimidating the witnesses, who are

mainly collegemates of the petitioners. If the petitioners succeed in their attempt, it would cause prejudice to the prosecution. He pointed out that the local Police had registered the crime based on the independent investigation conducted by them and not and not based on the report of the Anti-Ragging Squad, as alleged by the counsel for the petitioners. He argued that considering the nature, seriousness and gravity of the allegations levelled against the petitioners, they may not be enlarged on bail at this stage. He further contended that in Ritu Chhabaria case, the Hon'ble Supreme Court has not considered its earlier decisions on the point. He prayed that the applications may be dismissed.

5. Sri.Sajith Kumar also reiterated the contentions of

Sri.K.P.Satheesan. He also relied on paragraph 16.20 of the final report and contended that since the CBI has left open their right for further investigation, the petitioners may not be enlarged on bail at this point. He contended that the local Police had conducted a very shabby investigation. It was at the last moment that the investigation was handed over to the CBI, who hastily filed the final report. The incriminating materials on record establish the active involvement of the petitioners in the crime. As the

petitioners and witnesses in the crime are college mates, the

petitioners will prevail over the witnesses, which will cause prejudice to the Intervenor, and justice will be defeated. He placed reliance on the decision of the Hon'ble Supreme Court in Amalendupal @ Jhantu v. State of Bengal [(2010) 1 SCC 707], Sri.Ram v. State of U.P [(1975) 3 SCC 495] and Madan Mohan Singh v. State of Gujarat and another [(2010) 8 SCC 628] to reinforce his submissions. He prayed that the applications may be dismissed.

6. The points that arise for consideration in these bail applications are:

(i) Whether the petitioners are entitled to be released on statutory bail under Section 167(2) of the Cr PC?

(ii) Whether the petitioners are entitled to be enlarged on bail? POINT No.(i)

7. Sri. S. Rajeev taking a cue from the statement in paragraph

No.16.20 of the final report, wherein it is stated that the role of the other persons involved in the crime is to be established and hence a further investigation is required to be conducted, and relying on the decision in Ritu Chhabarias case, contended that the final report is a subterfuge to deprive the petitioners indefeasible fundamental right to statutory bail provided under Sec.167(2) of the Cr PC. Therefore, all the applications have to be allowed on the sole ground.

8. The above contention is untenable and has to be outrightly

rejected for more reasons than one. The law with regard to the filing of a complete final report is no longer *res integra* in view of the emphatic declaration of law by the Constitutional Bench of the Honble Supreme Court in *K.Veeraswami vs Union of India and others* [(1991) 3 SCC 655], wherein it is explained as under:

"76. The charge-sheet is nothing but a final report of police officer under

Section 173(2) of the Cr PC. The Section 173(2) provides that on completion of the investigation the police officer investigating into a cognizable offence shall submit a report. The report must be in the form prescribed by the State Government and stating therein (a) the names of the parties; (b) the nature of the information; (c) the names of the persons who appear to be acquainted with the circumstances of the case; (d) whether any offence appears to have been committed and, if so, by whom

(e) whether the accused has been arrested; (f) whether he had been released on his

bond and, if so, whether with or without sureties; and (g) whether he has been forwarded in custody under Section 170. As observed by this Court in *Satya Narain Musadi v. State of Bihar* [(1980) 3 SCC 152, 157 : 1980 SCC (Cri) 660] that the statutory requirement of the report under Section 173(2) would be complied with if the various details prescribed therein are included in the report. This report is an intimation to the magistrate that upon investigation into a cognizable offence the Investigating Officer has been able to procure sufficient evidence for the court

to inquire into the offence and the necessary information is being sent to the court. In fact, the report under Section 173(2) purports to be an opinion of the Investigating Officer that as far as he is concerned he has been able to procure sufficient material for the trial of the accused by the court. The report is complete if it is accompanied with all the documents and statements of witnesses as required

by Section 175(5). Nothing more need be stated in the report of the Investigating Officer. It is also not necessary that all the details of the offence must be stated. The details of the offence are required to be proved to bring home the guilt to the accused at a later stage i.e. in the course of the trial of the case by adducing acceptable evidence."

(emphasis supplied)

9. Subsequently, in *Vipul Shital Prasad Agarwal vs. State of*

Gujarat and another [2013 (1) SCC 197], J.Chelameswar J (as he then was) in a concurring judgment of a three-judge Bench of the Honble Supreme Court has made the following observations: 24. In my opinion, the mere undertaking of a further investigation either by

the Investigating Officer on his own or upon the directions of the superior police officer or pursuant to a direction by the concerned Magistrate to whom the report is forwarded does not mean that the report submitted under Section 173(2) is abandoned or rejected. It is only that either the Investigating Agency or the concerned Court is not completely satisfied with the material collected by the investigating agency and is of the opinion that possibly some more material is required to be collected in order to sustain the allegations of the commission of the offence indicated in the report.

10. Recently, in *Central Bureau of Investigation vs. Kapil Wadhawan* [2024 (3) SCC 734], the Honble Supreme Court, by relying on *K.Veeraswamis* case and all the earlier precedents, has held thus: 23. The benefit of proviso appended to sub-section (2) of Section 167 of the Code

would be available to the offender only when a chargesheet is not filed and the investigation is kept pending against him. Once however, a chargesheet is filed, the said right ceases. It may be noted that the right of the investigating officer to pray for further

investigation in terms of sub-section (8) of Section 173 is not taken away only because a chargesheet is filed under sub-section (2) thereof against the accused. Though ordinarily all documents relied upon by the prosecution should accompany the chargesheet, nonetheless for some reasons, if all the documents are not filed along with the chargesheet, that reason by itself would not invalidate or vitiate the chargesheet. It is also well settled that the court takes cognizance of the offence and not the offender. Once from the material produced along with the chargesheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not. The pendency of the further investigation qua the other accused or for production of some documents not available at the time of filing of chargesheet would neither vitiate the chargesheet, nor would it entitle the accused to claim right to get default bail on the ground that the chargesheet was an incomplete chargesheet or that the chargesheet was not filed in terms of Section 173(2) of Cr.P.C.

11. It is apposite to state that a two-Judge Bench of the Honourable

Supreme Court in Directorate of Enforcement v. Manpreet Sing Talwar (SLP (Criminal) Diary No.18272/2023) has directed that all applications for default bail based on the principles laid down in Ritu Chhabarias case to be deferred. Subsequently, on 04.05.2023, a three-judge Bench of the Honble Supreme Court in the very same case (Manpreet Sing Talwar), after converting the special leave petition to an appeal by its order in SLA (Crl.) No.5724/2023 has extended the initial interim order. Thus, as of today, the ratio decidendi in K.Veeraswami and Vipul Shital Prasad Agarwal cases rules the roost.

12. On analysing the final report, I prima facie find that it satisfies the

requisite parameters laid down in the afore-cited precedents. Hence, the contention that the petitioners are entitled to statutory bail, in view of the statement in paragraph 16.20 of the final report, is untenable and is only to be rejected. Consequently, I find point No. (i) against the petitioners. Point No.(ii).

13. It is trite law that at the stage of considering a bail application, a

detailed examination of the evidence and elaborate documentation of the merit of the case need not be undertaken. There is a need to indicate in such orders reasons for prima facie concluding why bail is granted or refused, particularly where the accused is alleged to have committed a serious offence. (Read Kalyan Chandra Sarkar v. Rajesh Ranjan [(2004) 7 SCC 528].

14. In light of the exposition of the law, I refrain from embarking upon an elaborate discussion on the merits of the case so as to avoid prejudice to either side. To avoid repetition, I also desist from reiterating the prosecution allegation, which has already been narrated in the 2 nd paragraph.

15. The petitioners are alleged to have committed the offences

punishable under Sections 120B, 341, 323, 324, 342, 355, 306 and 506 of the IPC and Section 4 read with Section 3 of the Act. The only non-bailable offence alleged against the petitioners is Section 306 of the IPC. It is profitable to refer to Section 306 of the IPC, which reads thus: 306.Abetment of suicide. - If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

16. The necessary ingredients to bring an act or omission by a

person charged with the offence under Section 306 are well-settled in a catena of decisions by the Honble Supreme Court and this Court. In a recent decision in Geo Varghese v. State of Rajasthan [(2021) 19 SCC 144], the Honourable Supreme Court has explained the above provision in the following lines: 12. In our country, while suicide in itself is not an offence as a person committing suicide goes beyond the reach of law but an attempt to commit suicide is considered to be

an offence under Section 309IPC. The abetment of suicide by anybody is also an offence under Section 306 IPC.

13. Though, IPC does not define the word suicide but the ordinary

dictionary meaning of suicide is self-killing. The word is derived from a modern Latin word suicidium, sui means oneself and cidium means killing. Thus, the word suicide implies an act of self-killing. In other words, act of death must be committed by the deceased himself, irrespective of the means adopted by him in achieving the object of killing himself.

14. Section 306 IPC makes abetment of suicide a criminal offence and

prescribes punishment for the same. Abetment is defined under Section 107IPC which reads as under: 107. Abetment of a thing.-A person abets the doing of a thing, who- First.-Instigates any person to do that thing; or Secondly.-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or Thirdly.-Intentionally aids, by any act or illegal omission, the doing of that thing. Explanation 1.-A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing. Explanation 2.-Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

15. The ordinary dictionary meaning of the word instigate is to bring about

or initiate, incite someone to do something. This Court in Ramesh Kumar v. State of Chhattisgarh [Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618, has defined the word instigate as under : 20. Instigation is to goad, urge forward,

provoke, incite or encourage to do an act.

16. The scope and ambit of Section 107 IPC and its co-relation with Section

306 IPC has been discussed repeatedly by this Court. In *S.S. Chheena v. Vijay Kumar Mahajan* [*S.S. Chheena v. Vijay Kumar Mahajan*, (2010) 12 SCC 190, it was observed as under : 25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by the Supreme Court is clear that in order to convict a person under Section 306IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit

suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide. (emphasis given)

17. Again, in *M. Arjunan v. State*, represented by the Inspector of

Police [(2019) 3 SCC 315] the Honourable Supreme Court has held

thus:

7. The essential ingredients of the offence under Section 306 IPC are : (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied the accused cannot be convicted under Section 306 IPC. (emphasis supplied)

18. In *Chitresh Kumar Chopra vs State (Govt. of NCT of Delhi)*

[(2009) 16 SCC 605], the Honble Supreme Court while dealing with the aspect of abetment has observed that, to attract abetment, there should be an intention to provoke, incite or encourage doing of an act by the latter. Each persons suicidable pattern is different from others. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straight jacket formula in dealing with such cases. Each case has to be decided on its own facts and circumstances.

19. In the backdrop of the above legal principles, let us now delve into the facts of the present case to prima facie ascertain whether the ingredients of the offence under Section 306 have been made out.

20. On an evaluation of the final report, the materials on record and

the case diary, it is discernible that the genesis of the incident is the deceaseds misbehaviour towards X, who groped her thrice on the night of 12.2.2024. X complained about the incident to accused No.12, who then informed accused Nos.11, 10, 9 and 13. The said accused decided to question the deceased. It is borne out from the records that X had also submitted a written complaint to the Internal Complaints Committee of COVAS and an inquiry was initiated. But, due to the death of the deceased, the complaint was closed. The statements of PWs 2, 3 and 5 bear testimony to this aspect.

21. On 15.2.2024, accused Nos.10, 12 and 13 telephoned the

deceased and asked him to return to the hostel to settle the issue regarding his misbehaviour with 'X'. Consequently, the deceased returned to the COVAS on 16.2.2024. By 21.30 hours, accused Nos.9, 10, 11 and 12, accompanied by other classmates, took the deceased to a nearby hillock

and questioned the deceased about his misbehaviour. During the questioning, accused No.2 slapped the deceased and instructed the others to take the deceased to the hostel. Later, at around 21.50 hours, accused No.2 assaulted him with a belt and hand; accused No.5 slapped, kicked and beat the deceased with a

wire of glue gun; accused No.7 assaulted the deceased with a belt and accused Nos.6, 3, 4, 8, 9, 10, 11 and 12 assaulted the deceased with their hands. Subsequently, the above accused humiliated the deceased in the presence of the hostel inmates of the hostel. Accused No.2 threatened to socially isolate the deceased, and accused No.1 slapped the deceased. The deceased spent the whole day secluded in room No.5 on 17.2.2024. On 18.2.2024, at approximately 12.30 hours, the deceased went to the bathroom and hung himself.

22. I find sufficient force in the contention of Sri.John. S. Ralph, that

there is an absence of corresponding antemortem injuries on the body of the deceased, other than for those injuries caused due to hanging as per the post-mortem report. According to learned Counsel, if the accused had brutally assaulted the deceased, as alleged by the prosecution, certainly there would have been corresponding injuries on his body. The further contention of the learned Counsel, that if the prosecution allegation is taken

at its face value, the accused can only be said to have had the mensrea to chasten the deceased and not to instigate him to commit suicide, is also found plausible.

23. On an overall consideration of the facts and circumstances of the

case, prima facie, I do not find sufficient material to establish any positive act on the part of the accused to have instigated or aided the deceased to commit suicide. It is seen that Section 34 IPC has been deleted by the prosecution. Nonetheless, that is a matter to be decided after the trial.

24. The objections of the CBI in enlarging the petitioners on bail are

(i) the petitioners may influence the witnesses, since most of the witnesses are collegemates of the petitioners, and (ii) the petitioners may flee from justice.

25. In State of U.P., through CBI v. Amarmani Tripathi [(2005) 8

SCC 21], the Honourable Supreme Court has observed that a vague allegation that an accused may tamper with the evidence or witnesses may not be a ground

to refuse bail.

26. The CBI's anxiety on the above two factors can be safeguarded by imposing stringent conditions i.e., by directing the petitioners to surrender

their passports and not to enter Wayanad District till the conclusion of the trial. Taking into consideration the peculiar facts and circumstances of the case, the jurisdictional Court can also be directed to expedite the trial.

27. The Honble Supreme Court has laid down the broad principles,

while considering applications for bail in *Prahlad Sing Bhati v. NCT, Delhi* [(2001) 4 SCC 280], *Gurucharan Singh v. State (Delhi Administration)* [(1978) 1 SCC 118], *Kalyan Chandra Sarkars case* and a plethora of judgments.

28. In *Sanjay Chandra v. Central Bureau of Investigation* [2012 1 SCC 40], the Honourable Supreme Court has held as follows:

21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody

pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, necessity is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the

Constitution that any person should be punished in respect of any matter, upon which, he has not been

convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. Apart from the question of prevention being the object of refusal of bail,

one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.

27. This Court, time and again, has stated that bail is the rule and committal

to jail an exception. It has also observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution.

29. It is also well settled that once a final report is filed, a strong case has to be made out for continuing a person in judicial custody. The right to bail cannot be denied merely due to the sentiments of the society.

30. Indisputably, the investigation in the case is complete, and the

final report has been laid before the jurisdictional Court. The maximum punishment that can be imposed on the petitioners in the event of them being found guilty for the predicate offence under Sec.306 of the IPC is up to 10 years. The petitioners have now been in judicial custody for more than 90 days. The petitioners do not have any criminal antecedents and are all students aged 22 to 24 years.

31. On an overall consideration of the facts, the rival submissions

made across the Bar and the materials placed on record, and my observations made above, I am of the definite view that the petitioners are entitled to be released on bail. Accordingly, I answer point No.(ii) in favour of the petitioners. In the result, the applications are allowed by directing the petitioners to be released on bail on them executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum, to the satisfaction of the jurisdictional court, which shall be subject to the following conditions:

(i) The petitioners shall appear before the Investigating Officer as and when directed;

(ii) The petitioners shall not directly or indirectly make any

inducement, threat or procure to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or any Police Officer or tamper with the evidence in any manner, whatsoever;

(iii) The petitioners shall not commit any offence while they are on bail;

(iv) The petitioners shall surrender their passports, if any, before the jurisdictional court at the time of execution of the bond. If they have no passports, they shall file affidavits to the effect before the court below on the date of execution of the bond;

(v) The petitioners shall not leave the State of Kerala without the previous permission of the jurisdictional Court.

(vi) The petitioners shall not enter the Wayanad District till the

conclusion of the trial in the above crime.

(vii) In case of violation of any of the conditions mentioned above, the

jurisdictional court shall be empowered to consider the application for cancellation of bail, if any filed, and pass orders on the same, in accordance with law. (viii) Applications for deletion/modification of the bail conditions shall also be filed before the jurisdictional court.

(ix) Needless to mention, it would be well within the powers of the

Investigating Officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioners even while they are on bail as laid down by the Hon'ble Supreme Court in *Sushila Aggarwal v. State (NCT of Delhi) And another* [2020 (1) KHC 663].

(x) The observations made in this order are only for the purpose of considering the applications and the same shall not be construed as an expression on the merits of the case to be decided by jurisdictional Courts. SD/- ma/sks C.S.DIAS, JUDGE

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