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Abu Kk vs Ajithkumar V

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Court : Kerala

Decided On : Apr-28-2023

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Crl.MC/5066/2022

Appellant : ABU KK

Respondent : Ajithkumar V

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. FRIDAY, THE 28TH DAY OF APRIL 2023 / 8TH VAISAKHA, 1945 CRL.MC NO. 5066 OF 2022 [AGAINST THE ORDER DATED 13.7.2022 IN CRL.M.C. No.1621/2022 & CRL.MC NO.1623/2022 PASSED BY THE ADDITIONAL SESSIONS COURT-II, PALAKKAD IN CRIME NO.218/2022 OF NATTUKAL POLICE STATION, PALAKKAD] PETITIONER/DEFACTO COMPLAINANT: ABU K.K. AGED 55 YEARS S/O. HASSANKUTTY, KUMBALAKUZHIYAN HOUSE, KARKKIDAMKUNNU POST, MANNARKKAD TALUK, PALAKKAD DISTRICT, PIN - 679335 BY ADVS. K.M.FIROZ M.SHAJNA P.C.MUHAMMED NOUSHIQ RESPONDENTS/PETITIONERS IN

CRL.MC BEFORE THE SESSIONS COURT (ACCUSED) AND STATE AND INVESTIGATION OFFICER:

1 AJITHKUMAR V AGED 54 YEARS S/O. THANKAMMA, VELLUTHANATH HOUSE, ALANALLUR POST, MANNARKKAD TALUK, PALAKKAD DISTRICT, PIN - 678601 2 BINEESH O.V AGED 44 YEARS S/O. VIJAYAN, OTTUPPARA HOUSE, MURINKANNI, KUTTANISSERI POST, OTTAPPALAM TALUK, PALAKKAD DISTRICT - 679514, PRESENTLY SECRETARY, ALANALLUR CO-OPERATIVE URBAN CREDIT SOCIETY, ALANALLUR, ALANALLUR POST, MANNARKKAD TALUK, PALAKKAD DISTRICT, PIN - 678601 3 SHAJI T AGED 41 YEARS S/O. KUMARAN TC, THAZHATHETHIL HOUSE, MANNUR POST, PATTHIRIPALA, PALAKKAD DISTRICT, PIN - 679302 4 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 5 SUB INSPECTOR OF POLICE, NATTUKAL POLICE STATION NATTUKAL POST, MANNARKKAD TALUK, PALAKKAD DISTRICT, PIN -

CRL.MC No.5066/2022 2 R1 & R2 BY ADVS. VINOD MADHAVAN M.V.BOSE(K/8/1967) P.M.MAZNA MANSOOR(K/745/2014) DIVYA T.P.(K/218/2020) R4 & R5 BY SRI.VIPIN NARAYAN, PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 11.04.2023, THE COURT ON 28.04.2023 PASSED THE FOLLOWING: CRL.MC No.5066/2022 3

ORDER

This Crl.MC is filed by the defacto complainant in Crime

No.218/2022 of Nattukal Police Station. The challenge in this Crl.M.C. is against Annexures A17 and A18 orders passed by the Court of Sessions, Palakkad in Crl.M.C. Nos.1621/2022 and 1623/2022. As per the orders impugned in this case, the learned Sessions Judge granted anticipatory bail to the accused in the aforesaid crime, who are respondents 1 to 3 in this Crl.M.C.

2. The facts which led to the filing of this Crl.M.C. are as follows: The crime was registered on the allegations regarding the

misappropriation of the funds of Alanallur Co-operative Urban Credit Society. The aforesaid Credit Society was under the Management Committee/Board of Directors consisting of eleven members. The 1 st accused/1st respondent was the President, the 2nd accused/2nd respondent was the Secretary and the 3 rd accused/3rd respondent was the Contractor who had carried out certain works for the society. The basic allegation on the basis of which the aforesaid crime registered was that the accused persons have conspired together with the intention to cause unlawful loss

CRL.MC No.5066/2022 4 to the Society and to make unlawful personal gains to them, prepared a false estimate relating to the interior works in the newly started head office of the Society and also in Edathanattukara branch office of the Society, and invited quotations without following proper procedure. In response to the tender notification, the 3rd accused submitted a quotation showing a figure marginally lesser than (closer to) the amount shown in the estimate and thereby caused a misappropriation of an amount of Rs.85 lakhs of the society. The other members of the Board of Directors of the Society submitted a complaint before the Joint Registrar of Co-operative Societies, Palakkad as evidenced by Annexure-A1 highlighting certain discrepancies in the manner in which the works were awarded to the 3 rd accused and also complaining about the inferior quality of the works done. It was also alleged in the aforesaid complaint that, the decision to invite quotation and to award the work to the 3rd accused were taken without informing the Management committee and by creating false minutes of the meeting of the Management committee to create an impression that the works were awarded with the approval of the Committee. On the basis of the aforesaid complaint, the Joint Registrar of Co-operative Societies conducted an

CRL.MC No.5066/2022 5 inquiry. As part of such inquiry, a notice was issued to Sri.Haridasan M., a retired Assistant Engineer, Local Self Government Department who allegedly prepared the estimates based on which the quotations for interior works for the head office as well as Edathanattukkara branch of the Society were

invited. The said Haridasan stated before the Joint Registrar that, he never visited the head office or the branch office of the said Society for the purpose of preparing any estimate and he was never consulted by accused Nos.1 and 2 for the said purpose. He asserted that, the copies of the estimate which are produced as Annexures A2 and A3 in this Crl.M.C. were not prepared by him and the sign and seal contained on the said documents are forged.

3. Besides the same, the said Haridasan, upon coming to know the

forgery committed by the accused, submitted a complaint before the District Police Chief, Palakkad as evidenced by Annexure-A9. Acting upon the said complaint, Nattukal Police Station registered Crime No.59/2022 for the offences punishable under Sections 420,465,468,471 of the Indian Penal Code, but the 3 rd accused in this crime alone made as an accused.

4. Thereupon, the petitioner herein submitted a private complaint

as per Crl.M.P No.1144/2022 before the Judicial First Class Magistrate Court, Mannarkkad highlighting in detail, the acts committed by the respondents 1 to 3/accused Nos.1 to 3 with respect to the aforesaid transactions. The learned Magistrate referred the said private complaint for investigation to the Nattukkal Police Station under Section 156(3) of Cr.PC. Consequently, Crime No.218/2022 was registered for the offences punishable under Sections 379,406,420,465,468,471,120-B,408 r/w. Section 34 of the IPC. As the accused apprehended arrest, the applications for anticipatory bail were submitted before the Sessions Court, Palakkad. Crl.M.C.No.1621/2022 was submitted by accused Nos.1 and 2 and Crl.M.C.No.1623/2022 was filed by the 3rd accused. The petitioner/defacto complainant appeared in both the aforesaid anticipatory bail applications and submitted Annexures-A15 and A16 objections. As per Annexures A17 and A18 orders, the learned Sessions Judge granted anticipatory bail to the accused persons and the said orders are impugned in this Crl.M.C.

5. Heard Sri.K.M.Firoz, the learned counsel appearing for the petitioner, Sri.Vinod Madhavan, the learned counsel appearing for CRL.MC No.5066/2022 7 respondents 1 and 2 and Sri.Vipin Narayan, the learned Public Prosecutor for the State.

6. The learned counsel for the petitioner submits that, while

granting anticipatory bail, the learned Judge committed a grave error, as the relevant factors which are to be taken note of for invoking the jurisdiction vested upon the court under section 438 of Cr.P.C were not taken into consideration and instead, the anticipatory bail was granted mainly on the ground that the custodial interrogation of the accused was not necessary, as the relevant documents of the case are now in the custody of the Administrator, who is in-charge of the affairs of the Society. It was vehemently contended by the learned counsel for the petitioner that, the fact that the documents are in the custody of the Administrator alone cannot be a valuable criteria for granting anticipatory bail. According to him, the other necessary criteria such as, the seriousness of the offence, severity of punishment, nature of the offence, pre-planned nature of the acts, which is an economic offence, the specific role played by the accused persons as is evident from the records etc., were not taken into consideration. The learned counsel for the petitioner places reliance upon

CRL.MC No.5066/2022 8 large number of decisions including Supreme Bhiwandi Wada Manor Infrastructure Private Limited v. State of Maharashtra and Another [(2021)8 SCC 753], Neeru Yadav v. State of Uttar Pradesh and Another [(2016)15 SCC 422], Rakesh Baban Borhade v. State of Maharashtra and Another [(2015)2 SCC 313], Chitambaram P. v. Directorate of Enforcement [(2019)9 SCC 24], State of Gujarat v. Narendra K. Amin [(2008)13 SCC 594], State of A.P. v. B.K.Kundu [(1997)8 SCC 104] and Rahul R.U. v. State of Kerala [2021(4) KHC 44].

7. The learned Public Prosecutor would support the contentions

raised by the petitioner by pointing out that since the matter is under investigation and considering the nature of allegations, a detailed investigation is required, for which, the custodial interrogation of the petitioners is necessary.

8. On the other hand, the learned counsel for the respondents 1

and 2 would seriously oppose the prayer sought by the petitioner. It is pointed out that, all the decisions based on which allegations are raised against them, were taken by the said respondents collectively with the other Managing Committee members of the Society, during the course of

CRL.MC No.5066/2022 9 meeting of the committee and with their approval. No personal gains were obtained by them, and they deny all the allegations contrary to the same. Respondents 1 and 2 have also filed a detailed objection in response to the averments made in the Crl.M.C. By placing reliance upon the same, the learned counsel for the respondents 1 and 2 seeks for dismissal of the Crl.M.C.

9. I have gone through the records including the case diary of the

said case. The petitioner also produced Annexure-A19 report of the Unit Inspector, Attapadi/Inquiry Officer, who conducted an inquiry under section 66 of the Kerala Co-operative Societies Act in respect of the allegations raised against the accused persons.

10. The crucial allegations raised against the accused pertain to the

malpractices and misappropriation of the amounts while executing the interior decoration works in the newly constructed building for the head office of the Society and also in its branch office at Edathanattukkara. In respect of both the works, the specific allegations against the accused are that, the quotations were invited on the basis of estimate falsely created by forging the signature of one Haridasan, a retired Assistant Engineer,

CRL.MC No.5066/2022 10 LSGD. The falsity of the aforesaid document is evident from the fact that, the said Haridasan himself came forward and submitted a complaint against all the three accused persons as per Annexure A9 complaint submitted before the District Police Chief. In paragraph 4 of Annexure A9 it is specifically stated by the said Haridasan that, his false signature and the seals were created by the accused Nos.1 to 3. However, surprisingly, in Annexure A10 FIR registered, accused Nos. 1 and 2 were not shown as accused persons. The

private complaint was submitted by the petitioner in such circumstances. In the said private complaint also, there are specific allegations against all the three accused persons. One of the crucial aspects pointed out by the petitioner in this case is the proximity of the amounts shown in the estimate and amounts shown in the quotations submitted by the 3rd accused. The petitioner/defacto complainant,clearly mentioned in the objections submitted before the learned Sessions Judge that, in response to the notification for the work of the head office, the 3 rd accused submitted a quotation of Rs.67,81,743/- for 55 items and the price difference for these items between the estimate and the quotation were within the marginal range of Rs.50/- to 500/-. Similarly, with respect to

CRL.MC No.5066/2022 11 the branch office at Edathanattukara, the difference between the estimate and the quotation for different items of work was ranging from Rs.50/- to 300/-. The quotation submitted for the work of branch office was for an amount of Rs.34,65,266/-. I have carefully gone through the contents of Annexures A2 to A4 which are the estimates and the quotations submitted by the 3rd respondent respectively. From the scrutiny of the same, I find some force in the aforesaid contentions as the difference is very marginal. According to the learned counsel for the petitioner, this is not a mere coincidence but instead, a clear indication that the quotation was prepared by the 3rd accused by fully knowing the contents of estimate.

11. The contentions raised by the petitioner, to a great extent,

fortified by the findings entered into by the inquiry officer who conducted the inquiry under section 66 of the Kerala Co-operative Societies Act, the report of which is produced as Annexure-A19. The said Inquiry Report clearly reveals a detailed inquiry after recording the statements of all the parties to the transactions. Even though the accused Nos.1 and 2 have asserted that all the decisions relating to the awarding of the works including the decision to invite tenders were taken on the basis of approval

CRL.MC No.5066/2022 12 of the committee, most of the committee members have clearly stated that, they were not aware of such transactions as they were not informed by accused Nos.1 and 2 about the same. According to the committee

members, for the purpose of preparation of minutes, they have put signature on blank papers and later those were filled up by the accused persons. In Annexure A19 report, it was also noted that, as regards tender notification for the head office, in addition to the quotation submitted by the 3rd accused, they also received two other quotations by one Archana Furniture & Interior and one Green Interiors Pvt.Ltd'. The respective amounts quoted by the said establishments were Rs.74,34,933.61/- and 71,78,009.67/-, whereas, the amount quoted by the 3 rd accused was Rs.67,81,743.89/-. The estimate allegedly prepared by the said Haridasan was Rs.68,28,998.11/-. It is further revealed from the inquiry that the persons who have allegedly submitted the other two tenders were summoned in which Sri. Vimal Das, the owner of M/s Archana Furniture & Interior, appeared before the Inquiry Officer and gave a statement to the effect that he never submitted any quotation, as is seen from the records maintained by the accused Nos. 1 and 2.

12. With respect to quotation for the works of branch office also, it

is seen that two other quotations were received, one by M/s Archana Furniture & Interior , and another by M/s Galaxy Interiors. The amounts quoted by them were Rs.39,89,133.96/- and 36,84,798.62/- respectively, whereas the amount quoted by the 3rd accused was Rs.34,65,266.58/-. The amount shown in the estimate was Rs.34,82,514.76/-. With respect to this works also, Sri. Vimal Das, the owner of Archana Furnitures & Interior stated that, he had not given any quotation for the said works. Similarly, Sri. Suresh P., the owner of Galaxy Interiors has also stated that, he did not submit any quotation as shown in the records. Thus, it is evident that, besides the preparation of false estimate, false quotations were also seen submitted.

13. In the statement of the 3rd accused recorded by the Inquiry

Officer, it is seen that he admitted that he submitted quotations in the name of the other parties. He also stated that, as a gift in response to the work of the head office, he gave an amount of Rs.4,50,000/- to the 1 st accused and Rs.1,50,000/-

to the 2nd accused. Similarly, in respect to the works relating to the branch, an amount of Rs.3 lakhs has been given to

CRL.MC No.5066/2022 14 the 1st accused and Rs.1,50,000/- was given to the 2 nd accused. Thus, it is evident from the aforesaid document that, there are certain materials which are crucial in nature and would clearly reveal the role of all the accused persons in the commission of the said crime. These are all matters to be investigated in detail.

14. In addition to the aforesaid allegations, in Annexure-A11

private complaint submitted by the petitioner/defacto complainant, they also have a case that, the accused Nos.1 and 2 have opened a joint account in their name for the purpose of collecting amounts from the persons who availed loan from the Society. The aforesaid aspect is also seen inquired into by the inquiry officer and found to be correct. The statement of several account holders were seen recorded and they have stated that the accused persons used to collect certain amounts while granting credit facilities to them under the guise of processing fee. Thus, when taking into account all these aspects, it can be clearly seen that, there are specific materials available on record indicating the role played by all the accused

persons in the commission of the crime. In Siddharam Satlingappa Mhetre v. State of Maharashtra [2010(4)KLT 930(SC)], it was held that

CRL.MC No.5066/2022 15 nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her. In Jai Prakash Singh v. State of Bihar [(2012)4 SCC 379], it was held that the Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty.

In Chitambarams case (supra), the Honble Supreme Court taken note of the observations in the above referred judgments and the matters to be considered while considering the question of anticipatory bail in economic offences were clearly stated, the relevant paragraphs of which are extracted hereunder.

76. In Siddharam Satlingappa Mhetre v. State of Maharashtra [Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514] , the Supreme Court laid down the factors and parameters to CRL.MC No.5066/2022 16 be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also

held that the court should also consider whether the accusations have been

made only with the object of injuring or humiliating the applicant by arresting him or her.

77. After referring to Siddharam Satlingappa Mhetre [Siddharam Satlingappa

> Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514] and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in Jai Prakash Singh v. State of Bihar [Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468] , the Supreme Court held as under : (SCC p. 386, para 19)

19. Parameters for grant of anticipatory bail in a serious

> offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and

would not misuse his liberty. (See D.K. Ganesh Babu v. P.T. Manokaran [D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 : (2007) 2 SCC (Cri) 345] , State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain [State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213 : (2008) 1 SCC (Cri) 176] and Union of India v. Padam Narain Aggarwal [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1] .)

78. Power under Section 438 Cr PC being an extraordinary remedy, has to be

exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510] , it was held that in economic offences, the accused is not entitled to anticipatory bail.

79. The learned Solicitor General submitted that the scheduled offence and

offence of money-laundering are independent of each other and PMLA being a special enactment applicable to the offence of money-laundering is not a fit case for grant of anticipatory bail. The learned Solicitor General submitted that money-laundering being an economic offence committed with much planning and deliberate design poses a serious threat to the nation's economy and financial integrity and in order to unearth the laundering and trail of money, custodial interrogation of the appellant is necessary.

80. Observing that economic offence is committed with deliberate design with an eye on personal profit regardless to the consequence to the CRL.MC No.5066/2022 17

community, in State of Gujarat v. Mohanlal Jitamalji Porwal [State of Gujarat v. Mohanlal Jitamalji Porwal, (1987) 2 SCC 364 : 1987 SCC (Cri) 364] , it was held

as under : (SCC p. 371, para 5)

5. The entire community is aggrieved if the economic

> offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest.

81. Observing that economic offences constitute a class apart and need to be

visited with different approach in the matter of bail, in Y.S. Jagan Mohan Reddy v. CBI [Y.S. Jagan Mohan Reddy v. CBI, (2013) 7 SCC 439 : (2013) 3 SCC (Cri) 552] , the Supreme Court held as under : (SCC p. 449, paras 34-35)

34. Economic offences constitute a class apart and need to be

> visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

35. While granting bail, the court has to keep in mind the

> nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused,

reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.

From the observations made by the Honble Supreme Court in the aforesaid decisions, it is evident that anticipatory bail is to be granted only in exceptional circumstances and when the offence involved is an CRL.MC No.5066/2022 18 economic offence, the standards to be applied are more stringent. In Supreme Bhiwandi Wadas case (supra), the Honble Supreme Court has observed as follows:

22. The High Court, in granting anticipatory bail under Section 438 in the first two appeals and following that order in disposing of the challenge to the order of the Sessions Judge in the companion appeals, has evidently lost sight of the nature and gravity of the alleged offence. This Court in Sushila Aggarwal v. State (NCT of Delhi) (2020(1) KHC 663: (2020) 5 SCC 1: 2020(1) KLD 235: 2020(1) KLT 545: ILR 2020(1) Ker. 517 : AIR 2020 SC 831: 2020 Cri LJ 1590) has enunciated the considerations that must govern the grant of anticipatory bail in the following terms: 92.3. While considering an application (for grant of anticipatory bail) the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc. 92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court. An appellate court or a Superior court can set aside the order granting bail if the court granting bail did not consider relevant factors. In Myakala Dharmarajam v. The State of Telangana (2020 KHC 6010 : 2020(2) SCC

743: AIR 2020 SC 317 : 2020 Cri LJ 1457) this Court has

held :

> 9. It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material indicating prima facie involvement of the Accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the Accused, the High Court or the Sessions Court would be justified in cancelling the bail. 23 There are serious allegations against the respondent - accused of a fraudulent misappropriation of amounts intended to be paid by the

> company to the famers affected by the work of road widening being undertaken by the complainant. The FIR sets out details of the alleged acts of fraud and misappropriation of funds, as explained earlier. Having regard to the seriousness of the allegations no case for anticipatory bail was made out. The High Court has erred both in law and in its evaluation of the facts.

In Neeru Yadavs case (supra), it was held by the Honble Supreme Court that while granting bail, if the court failed to take into consideration the relevant material factors, it would make the order absolutely perverse and totally indefensible.

15. After considering the factual situation in this case, in the light

of the principles laid down by the Honble Supreme Court in the decisions mentioned above, I find some force in the contentions put forward by the learned counsel for the petitioner. From the reading of Annexures A17 and A18 orders which are impugned in this Crl.MC, it is evident that, the learned Sessions Judge has taken only one fact into consideration ie. the material documents are in the

custody of the Administrator and not in the custody of the petitioner and therefore, the custodial interrogation of the petitioners is not necessary. However, I am of the view that, in the light of the materials produced before this Court indicating the specific role of the petitioner, the aforesaid reason is neither sustainable nor is sufficient to

CRL.MC No.5066/2022 20 grant anticipatory bail to the accused in this case. It is evident that, several documents are seen falsely created and produced as part of the records. The source of the aforesaid records, manner in which the same were created are matters to be investigated by the Police. To conduct a proper investigation in the matter, the custodial interrogation of the accused may be necessary in this case. In this regard, the observations made by the Honble Supreme Court in B.K.Kundus case (supra) which reads as follows:

> 12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well- orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on the career of millions of students, learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order.

16. This is a case in which allegations are relating to the misappropriation of public funds and as per Annexure A19 report, several malpractices are seen committed

by the accused persons. The amount

CRL.MC No.5066/2022 21 involved is very huge. As observed by the Honble Supreme Court in the aforesaid decisions, economic offence constitutes a class apart and need to be visited with a different approach in the matter of bail. The facts of this case apparently indicates a matter which requires to be dealt with very strictly as large scale manipulations are evident from the materials produced. Therefore, I am of the view that, the discretion exercised by the learned Sessions Judge while granting bail to the accused was not on proper consideration and therefore liable to be interfered with.

In the result, this Crl.M.C is allowed. Annexures A17 and A18 orders passed by the Sessions Judge, Palakkad in Crl.M.C Nos.1621/2022 and are directed to surrender before the Investigation Officer within a period of seven days from today.

This Crl.M.C. is disposed of as above. Sd/- ZIYAD RAHMAN A.A. JUDGE pkk CRL.MC No.5066/2022 22 APPENDIX OF CRL.MC 5066/2022 PETITIONERS ANNEXURES ANNEXURE A1 TRUE COPY OF THE COMPLAINT DATED 08/07/2021 PREFERRED BY THE PETITIONERS AND OTHERS BEFORE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, PALAKKAD ANNEXURE 2 TRUE COPY OF THE FORGED ESTIMATE PREPARED BY ACCUSED AS REGARDS WORK OF HEAD OFFICE, ALANALLUR ANNEXURE A3 TRUE COPY OF THE FORGED ESTIMATE PREPARED BY ACCUSED AS REGARDS WORK OF EDATHANATTUKARA BRANCH ANNEXURE A4 TRUE COPY OF THE QUOTATION SUBMITTED BY RESPONDENT NO. 3/ 3RD ACCUSED AGAINST ANNEXURE A2. ANNEXURE5 TRUE COPY OF THE QUOTATION SUBMITTED BY RESPONDENT NO. 3/ 3RD ACCUSED AGAINST ANNEXURE A3 ANNEXURE A6 TRUE COPY OF THE COMPLAINT DATED 02/07/2021 PREFERRED BY PETITIONER ALONG WITH OTHERS TO JOINT REGISTRAR OF COOPERATIVE SOCIETIES, PALAKKAD ANNEXURE A7 TRUE COPY OF THE PRELIMINARY ENQUIRY REPORT SUBMITTED BY ASSISTANT REGISTRAR (GENERAL) MANNARKKAD TO JOINT REGISTRAR (GENERAL) ANNEXURE A8 TRUE COPY OF THE STATEMENT RENDERED BY MR.

HARIDASAN (RETIRED ENGINEER) TO ASSISTANT REGISTRAR (GENERAL), MANNARKKAD ANNEXURE A9 TRUE COPY OF THE COMPLAINT SUBMITTED BY MR. HARIDASAN (RETIRED ENGINEER) BEFORE THE 04/01/2022 ANNEXURE A10 TRUE COPY OF THE FIRST INFORMATION REPORT ALONG WITH THE FIRST INFORMATION STATEMENT IN CRIME NO. 59 OF 2022 OF NATTUKKAL POLICE STATION ANNEXURE A11 TRUE COPY OF THE COMPLAINT HAVING CRL.M.P. NO. 1144 OF 2022 ON THE FILE JUDICIAL FIRST CLASS MAGISTRATE COURT, MANNARKKAD ANNEXURE A12 TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO. 218 OF 2022 OF NATTUKAL POLICE STATION ANNEXURE A13 TRUE COPY OF CRL MC NO. 1621 OF 2022 ON THE FILES OF SESSIONS COURT (ADDITIONAL SESSIONS COURT-II), PALAKKAD. ANNEXURE A14 TRUE COPY OF CRL.M.C NO. 1623 OF 2022 ON THE FILES OF SESSIONS COURT (ADDITIONAL SESSIONS COURT-II), PALAKKAD ANNEXURE A15 TRUE COPY OF THE OBJECTION PREFERRED BY PETITIONER IN CRL.M.C. NO. 1621 OF 2022 ON THE FILES OF SESSIONS COURT (ADDITIONAL SESSIONS COURT-II), PALAKKAD ANNEXURE A16 TRUE COPY OF THE OBJECTION PREFERRED BY PETITIONER IN CRL.M.C. NO. 1623 OF 2022 ON THE FILES OF SESSIONS COURT (ADDITIONAL SESSIONS COURT-II), PALAKKAD ANNEXURE A17 CERTIFIED COPY OF THE ORDER DATED 13/07/2022 IN CRL MC NO. 1621 OF 2022 PASSED BY THE ADDITIONAL SESSIONS COURT-II, PALAKKAD ANNEXURE A18 CERTIFIED COPY OF THE ORDER DATED 13/07/2022 IN CRL MC NO. 1623 OF 2022 PASSED BY THE ADDITIONAL SESSIONS COURT-II, PALAKKAD ANNEXURE A19 TRUE COPY OF THE ENQUIRY REPORT UNDER SECTION 66 OF THE KERALA

CO-OPERATIVE SOCIETIES ACT SUBMITTED BY ASSISTANT REGISTRAR (GENERAL) MANNARKKAD TO JOINT REGISTRAR (GENERAL)

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