

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 8TH DAY OF MARCH 2022 / 17TH PHALGUNA, 1943

BAIL APPL. NO. 941 OF 2022

CRIME NO.144/2022 OF Fort Kochi Police Station, Ernakulam

PETITIONER/ACCUSED No.1:

ROY J VAYALAT
AGED 49 YEARS, S/O. LATE V.T. JOSEPH,
VAYALAT NEST, EDAKOCHI P.O.,
ERNAKULAM, KOCHI, PIN - 682036

BY ADVS.
SAIBY JOSE KIDANGOOR
BENNY ANTONY PAREL
ANOOP SEBASTIAN
PRAMITHA AUGUSTINE
IRINE MATHEW
ADITHYA KIRAN V.E
ANJALI NAIR

RESPONDENTS/STATE:

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

2 THE STATION HOUSE OFFICER
FORT KOCHI POLICE STATION, PIN - 682001

BY ADVS.
BY SRI. GRACIOUS KURIAKOSE, ADDL.DIRECTOR GENERAL OF
PROSECUTION (AG-11)
BY ADV. SRI. C.K. SURESH, SR. PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
08.03.2022, ALONG WITH Bail Appl..1018/2022, 1020/2022, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 8TH DAY OF MARCH 2022 / 17TH PHALGUNA, 1943

BAIL APPL. NO. 1018 OF 2022

CRIME NO.144/2022 OF Fort Kochi Police Station, Ernakulam

PETITIONER/ACCUSED:

ANJALI VADAKKEPURAKKAL
AGED 25 YEARS
PERUMBAL NILAYAM, VAIDYARANGADI P.O, RAMANATTUKARA,
KOZHIKODE, KERALA
KOZHIKODE, PIN - 673633

BY ADV PEEYUS A.KOTTAM

RESPONDENT:

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

2 STATION HOUSE OFFICER
FORT KOCHI POLICE STATION, KOCHI, PIN - 682001

BY ADVS.
BY SRI. GRACIOUS KURIAKOSE, ADDL.DIRECTOR GENERAL OF
PROSECUTION (AG-11)
BY ADV. SRI. C.K. SURESH, SR. PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
08.03.2022, ALONG WITH Bail Appl..941/2022 AND CONNECTED CASES,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 8TH DAY OF MARCH 2022 / 17TH PHALGUNA, 1943

BAIL APPL. NO. 1020 OF 2022

CRIME NO.144/2022 OF Fort Kochi Police Station, Ernakulam

PETITIONER/ACCUSED:

SYJU M. THANKACHAN
AGED 41 YEARS
PANIPPURAYIDAM HOUSE, NOW RESIDING AT FLAT NO. 2G
COLAMBIA SKY LINE, EYEEVEE LEEGU FLAT, EDAHIRA KARA,
KAKKANAD, ERNAKULAM, PIN - 682030

BY ADVS.
PEEYUS A.KOTTAM
JOMON J. MALIEKAL
JOSEPH P P

RESPONDENT:

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

2 STATION HOUSE OFFICER, FORT KOCHI POLICE STATION,
FORT KOCHI POLICE STATION, FORT KOCHI,
ERNAKULAM, PIN - 682001

BY ADVS.
BY SRI. GRACIOUS KURIAKOSE, ADDL.DIRECTOR GENERAL OF
PROSECUTION (AG-11)
BY ADV. SRI. C.K. SURESH, SR. PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
08.03.2022, ALONG WITH Bail Appl..941/2022 AND CONNECTED CASES,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

[Bail Appl. Nos.941/2022, 1018/2022, 1020/2022]

The petitioners in these bail applications are arrayed as accused Nos. 1 to 3 in Crime No.144/2022 of Fort Kochi Police Station, Ernakulam District alleging commission of offences under Sections 370 A (1) & (2), 511 of 328, 354 A, 354, 506 & 509 of the Indian Penal Code read with 34 of that Code; Section 7 read with Section 8 of the Protection of Children from Sexual Offences Act; Section 77 of Juvenile Justice Act and Section 15 B of the Kerala Abkari Act. The petitioner in B.A. No.941/2022 is the 1st accused, the petitioner in B.A. No.1020/2022 is the 2nd accused and the petitioner in B.A. No.1018/2022 is the 3rd accused. The parties are hereinafter referred to by their ranking in the array of accused unless otherwise indicated.

2. Briefly and shorn of all unnecessary detail, the facts are that the 3rd accused was the promoter and owner of an organisation known by the name '*BIS Unicorn*'. The *de facto* complainant was working with accused No.3 as Executive Assistant for some period of time. In the month of October, 2021, the 3rd accused informed the *de facto* complainant that she would have to travel to with the *de facto* complainant to Ernakulam to attend a business meeting. The *de facto* complainant informed the 3rd accused that she would go to Ernakulam with her minor daughter aged 17 and her husband. It is alleged that in order to avoid the husband of the *de facto* complainant, the 3rd accused

informed the *de facto* complainant in the afternoon of 19-10-2021 that the meeting at Ernakulam was cancelled. It is stated that the husband of the *de facto* complainant accordingly left for Wayanad, in connection with his business. Thereafter, late in the evening, the same day, 3rd accused informed the *de facto* complainant that they have to go to Ernakulam as originally planned and by about 10 p.m, the *de facto* complainant, her minor daughter along with two other ladies (one of whom is stated to be working for the 3rd respondent as a 'tele caller') started for Cochin from Calicut. They checked into the hotel 'Holiday Inn' where rooms had been booked for them by the 2nd accused. According to the prosecution the 3rd accused had no business meeting fixed at Ernakulam and the same was a ruse to get the *de facto* complainant, her daughter and the other two women to Ernakulam on some false pretext. On the evening of 20-10-2021, the *de facto* complainant, her minor daughter and the 2 other ladies accompanying them were asked to come to the hotel 'Crowne Plaza' Ernakulam where they were introduced to the 2nd accused by the 3rd accused. From there they proceeded to a hotel in Fort Cochin belonging to the 1st accused in a car belonging to the 2nd accused. After they reached the hotel, the *de facto* complainant and others including the minor daughter of the *de facto* complainant were taken to a bar/nightclub in the hotel. It is alleged after reaching the hotel, the 2nd accused had offered to the *de facto* complainant and others including her minor daughter some

soft drinks which they refused as they felt that the soft drink might be spiked. It is alleged that the 3rd accused had also handed over a beer can to the minor daughter of the *de facto* complainant and on noticing the same, the *de facto* complainant had removed the beer can from her daughter's hand. It is alleged that the 1st accused introduced himself to the *de facto* complainant and others as being the owner of the hotel. It is alleged that the 1st accused tried to coerce the minor daughter of the petitioner to dance with him. It is alleged that the *de facto* complainant and her daughter refused and they moved to a corner of the room to get away from the 1st accused. It is alleged that again the 1st accused forcefully attempted to pull the minor daughter of the *de facto* complainant towards him and when the *de facto* complainant attempted to push him away, he grabbed the *de facto* complainant and held her close to his body. It is alleged that the *de facto* complainant and others had left the party midway but were forced to come back in by the 3rd accused and another lady. Since the bar was seen functioning well beyond the permitted hours, the offence under the provisions of the Abkari Act was also charged.

3. Heard Sri. Saiby Jose Kidangoor, for the 1st accused, Sri. Peeyus A Kottam for accused Nos. 2 & 3 and Sri. Grashious Kuriakose, Senior Advocate & Additional Director General of Prosecutions assisted by Sri. Suresh, Senior Public Prosecutor for the State. The learned counsel for the 1st accused vehemently contends that the complaint raised by the *de facto* complainant is

absolutely false. It is submitted that the complaint has been raised with malicious intentions, the only goal being to blackmail the 1st accused and to extract money from him. It is submitted that the *de facto* complainant had earlier filed a similar complaint against one Bijoy Antony before the Dy.S.P, Kalpetta which was later withdrawn. It is submitted that a complaint was also filed against one Manoj Mathew before the Superintendent of Police, Wayanad which was also withdrawn. It is submitted that the *de facto* complainant is an unlicensed money lender and a woman of low repute and morals and who is involved in various complaints and crimes in Sulthan Bathery, Kalpetta and Vythiri. It is submitted that the Income Tax Department had conducted a raid on the *de facto* complainant and huge sums of unaccounted money were recovered from her. It is alleged that there are more than 10 to 15 cases under Section 138 of the Negotiable Instruments Act against the *de facto* complainant. Reference is also made to Annexure-A2 where the *de facto* complainant was convicted for an offence under Section 120(O) of the Kerala Police Act after pleading guilty to the offence. It is submitted that the complaint has been registered also on account of the malafide intentions of the Investigating officer in this case. It is submitted that the *de facto* complainant has a 'YouTube' Channel where she uploads videos regarding restaurants and food outlets and that on the day in question after leaving the hotel owned by the 1st accused, late at night, she had

uploaded a video which shows that her case of being upset and intimidated after the incident at the hotel is completely false. It is submitted that there are conversations between a lawyer representing the *de facto* complainant and the 3rd accused in the case regarding payment of money which indicates that the attempt is only to blackmail the petitioner. It is submitted that the attempt of the Investigating officer is only to humiliate the petitioner and somehow take him into custody. It is submitted that considering the nature of the allegations the custodial interrogation of the petitioner is not necessary in the matter. The learned counsel appearing for accused Nos. 2 & 3 would reiterate the contentions raised by the learned counsel for the 1st accused. Additionally, WhatsApp chats between the minor victim and the 3rd accused in the case are produced and referred to show that even in the month of January 2022, the minor victim was talking to the 3rd accused in a manner as if they were close friends. It is submitted that there is no material to suggest that the offence alleged has been committed. Relying on the judgment of the Supreme Court in ***State of Karnataka by Nonavinakere Police v. Shivanna @Tarkari Shivanna ; (2014) 8 SCC 913*** it is contended that the delay in recording the statement of the victim under Section 164 Cr.P.C is fatal in this case. It is submitted that though the incident was reported on 31-01-2022, the statement of the victim was recorded only on 02-02-2022 which clearly suggests that the victim was tutored and doctored to give a false

statement in the matter. It is submitted that though the alleged incident took place on 20-10-2021, no complaint in this regard was raised till 31-01-2022. It is submitted that the considerations that must weigh with this Court while deciding whether anticipatory bail should be granted are those set out in the judgment of the Supreme Court in ***Siddharam Satlingappa Mhetre v. State of Maharashtra and others ; (2011) 1 SCC 694.*** Specific reference is made to paragraphs 121 and 122 of that judgment. It is submitted that the 3rd accused had filed a complaint against the *de facto* complainant in this case (Annexure-A7 produced along with Crl.M.A No.4/2022 in B.A. No.1018/2022) on 21-01-2022 alleging essentially that the *de facto* complainant was trying to ruin the reputation of the 3rd accused. Reference is also made to a complaint filed by the *de facto* complainant on 25-01-2022 and also the complaint filed by the victim (daughter of the *de facto* complainant) on 28-01-2022 to point out that the allegations in the complaint dated 31-01-2022 are absolutely false. It is submitted that even while filing the complaint dated 25-01-2022 against the 3rd accused, the *de facto* complainant had no case of the nature projected in the complaint filed on 31-01-2022. It is also submitted that the minor victim while filing the complaint dated 28-01-2022 (Annexure-A3 along with Crl.M.A. No.1/2022 in B.A. No.1018/2022) had only pointed out that her pictures were being circulated on social media and no other incident was ever raised. It is

submitted that all of the above cumulatively indicate that the complaint dated 31-01-2022 is nothing but false.

4. The learned Additional Director General of Prosecutions would vehemently oppose the grant of bail to the petitioners in these cases. He refers to the statement under Section 164 Cr.P.C, recorded from the minor victim. It is submitted that even assuming without conceding that the allegations raised against the character and conduct of *de facto* complainant are true, there is nothing to suggest that the statements made by the minor victim are untrue. He submits that the investigation conducted thus far reveals that the so-called business meeting for which the 3rd accused had come to Cochin along with the *de facto* complainant, the minor victim and 2 other ladies was nothing but a sham. It is submitted that the police have recorded statements from the persons who had met with the 3rd accused and that the statements recorded will show that no prior meeting had been fixed with them and meeting was clearly casual and no matter of any importance was discussed. It is submitted that even if the 3rd accused had some basis to request the *de facto* complainant to accompany her considering that the *de facto* complainant was the Executive Assistant of the 3rd accused there was no reason for the 3rd accused to request a 'telecaller' working with her to come to Cochin. It is submitted that even it is accepted for a moment that the *de facto* complainant had a malicious intention to raise the allegations there was no reason for the

other two women who were also with the *de facto* complainant and her minor daughter to give statements supporting those allegations. It is submitted that the elder sister of the lady who was working as a 'telecaller' with the 3rd accused had accompanied her to Cochin on account of the fact that she was unwilling to go alone to Cochin with the 3rd accused. It is submitted that there is absolutely no delay in recording the statement of the victim under Section 164 of the Cr.P.C. It is submitted that the complaint was registered on 31-01-2022 and the minor victim had an examination on 01-02-2022 and the statement under Section 163 Cr.P.C was recorded on 02-02-2022. It is submitted that though there was a delay in reporting crime, this, by itself is not fatal to the prosecution case. It is submitted that on account of the delay in reporting the crime, a detailed investigation was conducted by the police and the said investigation has revealed that the allegations raised are *prima facie* true. It is submitted that the statements given by the *de facto* complainant tallies with the CCTV visuals which were assessed by the police and which were available with the jurisdictional court in connection with another case registered against accused Nos.1 & 2. It is submitted that while the CCTV visuals themselves do not show the minor victim and the *de facto* complainant being harassed in any manner, the fact remains that the CCTV visuals clearly show that the *de facto* complainant along with her minor daughter and two others accompanying her tried to leave the party and

thereafter the 3rd accused along with another lady (whose identity is not yet been revealed) had forced them to come back and thereafter they had remained there till about 1 a.m. It is submitted that since the allegations raised against the accused in these cases involve an offence under Section 370/370A, the custodial interrogation of the accused is absolutely essential in the matter. With reference to the Whastaap chats produced along with Crl. M.A No.5/2022 in B.A. No.1018/2022 it is submitted that there is clear material in those chats that suggest that the 3rd accused in the case was attempting to make the minor victim reset the mobile phone of her mother / *de facto* complainant on the apprehension that the *de facto* complainant might have recorded videos/clicked pictures of the incidents which took place on the night of 20-10-2021 at the hotel owned by the 1st accused. It is submitted that accused Nos.1 & 2 have criminal antecedents. It is submitted that accused No.1 is accused in 13 other cases, the details of which are given below:

- 1) *Cr. 1962/2021 U/s 279, 304, 354, 109, 201 IPC of Palariavattom PS*
- 2) *Cr. 1774/13 U/s 120 (B), 420, 34 IPC of ET South PS*
- 3) *Cr. 1101/2011 U/s 406, 409, 420, 34 IPC of ET South PS*
- 4) *Cr. 1103/2011 U/s 406, 409, 420, 34 IPC of ET South PS*
- 5) *Cr. 1104/2011 U/s 406, 409, 420, 34 IPC of ET South PS*
- 6) *Cr. 1105/2011 U/s 406, 409, 420, 34 IPC of ET South PS*
- 7) *Cr. 1141/2011 U/s 406, 409, 420, 34 IPC of ET South PS*
- 8) *Cr. 735/15 U/s 420, 34 IPC of ET South PS*
- 9) *Cr. 1525/2013 U/s 120 (B), 420, 34 IPC of Kadavanthra PS*

- 10) Cr. 1280/2016 U/s 55 (a) of Abkari Act of Fortkochi PS
- 11) Cr. 864/12 U/s 283, 506 (1), 34 of IPC of Thrikkakara PS
- 12) Cr. 2101/2010 U/s 506 (1), 294 (b), 34 IPC of ET North PS
- 13) Cr. 601/11 U/s. 284, 336, 34 IPC of Thoppumpady PS

It is submitted that the 2nd accused in the case is accused in 10 other cases, the details of which are given below:

- 1) Cr. 1962/2021 U/s 279, 304, 354, 109, 201 IPC of Palarivattom PS
- 2) 2101/2021 U/s 406, 417, 420 IPC of Palarivattom PS
- 3) Cr. 1813/2021 U/s 27 (b), 8 NDPS Act of Maradu PS
- 4) 1416/21 U/s 27 (b), 8 NDPS Act of Infopark PS
- 5) 1417/21 U/s 27 (b), 8 NDPS Act of Infopark PS
- 6) 1418/21 U/s 27 (b), 8 NDPS Act of Infopark PS
- 7) Cr. No. 1603/2021, U/s. 27 (b) of NDPS Act of Fortkochi Police Station
- 8) Cr. No. 1546/2021, U/s. 27 (a), 29 of NDPS Act of Panangad Police Station
- 9) Cr. No. 1499/2021, U/s. 27 (a), 8 (c) of NDPS Act of E.T. South P.S
- 10) Cr. No. 1494/2021, U/s. 27 (a), 29 of NDPS Act of Thrikkakara P.S.

The Learned Additional Director General of Prosecutions has also placed the case diary in Crime No.144/2022 of Fort Kochi Police Station (which also contains the statements recorded from the two women who were with the *de facto* complainant and her minor daughter and also the statements recorded from the persons with whom the 3rd accused had fixed up meetings in Cochin), for my perusal.

5. The learned counsel appearing for the *de facto* complainant would submit that the *de facto* complainant had no occasion to attempt blackmail of the accused. It is submitted that the 3rd accused had obtained a loan after

pledging personal property of the *de facto* complainant and the conversations with the *de facto* complainant by the lawyer of the *de facto* complainant relate to the return of that money or the payment of interest to the bank in respect of the loan taken after pledging the personal property of the *de facto* complainant. It is submitted that the *de facto* complainant had not immediately given the complaint regarding the incident out of fear of the might and influence of the accused and on account of the fact that the husband of the *de facto* complainant did not want to involve his minor daughter in any complaint of this nature. It is submitted that the *de facto* complainant with the minor daughter and two other ladies were brought to Cochin on the false premise that there were certain important business meetings while the only intention was to take them to accused Nos. 1 & 2 in the case. It is submitted that if the petitioners are granted anticipatory bail there is every chance that the *de facto* complainant and her minor daughter will be intimidated, threatened or influenced so as to ensure that the accused go scot-free. It is submitted that the complaint filed by the *de facto* complainant on 25-01-2022 before the Commissioner of Police, Kozhikode relates to the incident of threat at the instance of the 3rd accused in the case on account of the demand raised by the *de facto* complainant for repayment of the loan amount taken by pledging personal property of the *de facto* complainant. It is submitted that the complaint filed by the daughter of the *de*

facto complainant on 28-01-2022 relates to the sharing of photos and pictures of the minor victim on social media by the 3rd accused in the case.

6. I have considered the contentions raised. At the request of the learned Additional Director General of Prosecution, I have viewed the CCTV visuals which have been collected by the prosecution, as indicated above. I have also seen certain videos and listened to certain voice clips as requested by the learned counsel for the accused/petitioners in these cases.

7. The considerations that must weigh with this Court while dealing with applications under Section 438 Cr.P.C are well settled. In ***Siddharam Satlingappa Mhetre v. State of Maharashtra***, (2011) 1 SCC 694, it was held: -

“112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

- (i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- (ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;*
- (iii) The possibility of the applicant to flee from justice;*
- (iv) The possibility of the accused's likelihood to repeat similar or other offences;*
- (v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;*
- (vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;*
- (vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the*

Penal Code, 1860 the court should consider with even greater care and caution because overimplication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

In ***P. Chidambaram v. Directorate of Enforcement***, (2019) 9 SCC 24 it was held:-

“74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information. In State v. Anil Sharma [State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039] , the Supreme Court held as under : (SCC p. 189, para 6)

“6. We find force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and

insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

The crux of the prosecution allegation appears to be that the *de facto* complainant and her minor daughter along with two other women were brought to Cochin on the pretext of a business meeting by the 3rd accused in the case. The *de facto* complainant, her minor daughter and the other two women stayed at a hotel arranged by the 2nd accused. Though the *de facto* complainant, her minor daughter and other two women were brought to Cochin on the pretext of some important business meetings, the investigation conducted thus far reveals that there was no pre-planned meeting at Cochin. The 3rd accused had only contacted two of her acquaintances over phone after reaching Cochin and had thereafter casually discussed certain matters with them. *Prima facie*, this indicates that the *de facto* complainant, her minor daughter and two other women were brought to Cochin on a false pretext. The submission of the learned counsel for the petitioners that the 3rd accused had no knowledge that the minor daughter of the *de facto* complainant would accompany them cannot be accepted since it is revealed that the 3rd accused

was on very friendly terms with the minor girl. It is true that CCTV visuals by themselves only establish that the *de facto* complainant, her minor daughter and two other women had attended a party in the hotel owned by the 1st accused and do not indicate the commission of the offence alleged against the accused/petitioners in these cases. However, the CCTV visuals indicate that the cameras do not properly cover the area where the *de facto* complainant and others were sitting initially. Moreover, the statement given by the *de facto* complainant and the statements recorded from the two women who accompanied her indicate clearly that the allegations raised by the *de facto* complainant are substantially true. Though some materials are relied upon by the learned counsel appearing for the petitioners to suggest that the conduct of the *de facto* complainant and others including the minor daughter of the *de facto* complainant immediately after they left the hotel of the 1st accused do not suggest that nothing untoward happened, one cannot ignore the fact that the minor victim has given a detailed statement regarding the harassment meted out to her. It is settled law that in a case like this the conviction itself can be based on the sole testimony of the minor victim if it inspires confidence in the trial court. Therefore the statement recorded from the victim under Section 164 Cr.P.C assumes significance. I cannot, in the facts of this case accept the contention of Sri.Peeyus Kottam relying on ***State of Karnataka by Nonavinakere Police v. Shivanna @Tarkari***

Shivanna that there was a delay in recording the statement under Section 164 Cr.P.C. While it is neither proper nor expected of this court to reach any conclusion regarding the guilt or otherwise of the accused at this stage, there appear to be some materials that would indicate that the custodial interrogation of the petitioners especially accused Nos. 1 & 2 would be necessary for a proper investigation into crime No.144/2022 of Forkochi Police Station. The fact that the 3rd accused requested the minor victim to reset her mother's (the *de facto* complainant's) mobile phone to erase any images/videos of the 'party' is troubling. Considering the law laid down in **Siddharam Satlingappa Mhetre (Supra)** and **P. Chidambaram (supra)** and taking into account the nature of the allegations and for other reasons indicated above, I hold that accused Nos 1 & 2 are not entitled to anticipatory bail. However, considering the fact that accused No.3 is a woman and is aged 24 years, the 3rd accused can be granted anticipatory bail subject to conditions. In the result, B.A. Nos.941/2022 and 1020/2022 are dismissed. B.A. No.1018/2022 is allowed. It is directed that the petitioner B.A. No.1018/2022 shall be released on bail, in the event of arrest in connection with Crime No.144/2022 of Fortkochi Police Station subject to the following conditions:-

(i) Petitioner in B.A. No.1018/2022 shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties each for the

like sum to the satisfaction of the jurisdictional Court;

(ii) Petitioner in B.A. No.1018/2022 shall report before the Investigating officer in Crime No.144/2022 of Fortkochi Police Station as and when called upon to do so;

(iii) Petitioner in B.A. No.1018/2022 shall not attempt to contact the *de facto* complainant, her minor daughter or interfere with the investigation or to influence or intimidate any witness in Crime No.144/2022 of Fortkochi Police Station;

(iv) The petitioner in B.A. No.1018/2022 shall surrender her passport before the jurisdictional Court. If the petitioner does not have a passport, she shall execute an affidavit to that effect and file the same before the jurisdictional court within seven days of release on bail;

(v) Petitioner in B.A. No.1018/2022 shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated by the Petitioner in B.A. No.1018/2022, the Investigating officer in Crime No.144/2022 of Fortkochi Police Station may file an application before the jurisdictional Court for cancellation of bail.

Sd/-
GOPINATH P.
JUDGE