

BA Nos.2285 and 2498 of 2024

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 2<sup>ND</sup> DAY OF APRIL 2024 / 13TH CHAITHRA, 1946

BAIL APPL. NO. 2285 OF 2024

CRIME NO.242/2024 OF Hill Palace Police Station, Ernakulam

PETITIONER/S:

- 1 ANIL KUMAR,AGED 64 YEARS  
S/O.AMBUJAKSHA MENON, PUTHENPURAYIL HOUSE, UDAYAMPEROOR  
KARA, MANAKKUNNAM VILLAGE, ERNAKULAM DISTRICT, PIN - 682307
- 2 SANTHOSH,AGED 49 YEARS  
S/O. NARAYANAN, CHALIYATH HOUSE, NADAMA THEKKUMBHAGOM  
VILLAGE, KANAYANNUR TALUK, ERNAKULAM DISTRICT, PIN - 682301
- 3 KRISHNANKUTTY NAIR,AGED 75 YEARS  
S/O. KRISHNAN NAIR, REVATHY HOUSE, PUTHIYAKAVU DESOM,  
THRIPPUNITHURA KARA, NADAMA THEKKUMBHAGOM VILLAGE,  
ERNAKULAM DISTRICT, PIN - 682301

BY ADVS.

R.ANIL

B.RAMAN PILLAI (SR.)

IEANS.C.CHAMAKKALA

SUJESH MENON V.B.

THOMAS SABU VADAKEKUT

MAHESH BHANU S.

RESSIL LONAN

ANANTH KRISHNA K.S.

RESPONDENT/S:

STATE OF KERALA,

REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN

- 682031

OTHER PRESENT:

Sr PP Smt Neema T.V

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02.04.2024 along  
with BA 2498/24, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BA Nos.2285 and 2498 of 2024

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 2<sup>ND</sup> DAY OF APRIL 2024 / 13TH CHAITHRA, 1946

BAIL APPL. NO. 2498 OF 2024

CRIME NO.242/2024 OF Hill Palace Police Station, Ernakulam

PETITIONER/S:

- 1 SATHEESAN,AGED 63 YEARS  
S/O. SANKARAN NAIR KALLAMPARAMBIL HOUSE, KAROTH ROAD,  
PUTHIYAKAVU, TRIPUNITHURA, ERNAKULAM, PIN - 682301
- 2 SASIKUMAR,AGED 56 YEARS  
S/O SIVARAMA MENON, VETTUVELIL HOUSE, THEKKUMBHAGUM,  
TRIPUNITHURA, ERNAKULAM, PIN - 682301
- 3 RENJITH,AGED 32 YEARS  
S/O. APPUKUTTA MENON, P.K NIVAS, THEKKUMBHAGUM,  
THRIPUNITHURA, ERNAKULAM, PIN - 682301

BY ADVS.  
SRUTHY N. BHAT  
P.M.RAFIQ  
AJEESH K.SASI  
M.REVIKRISHNAN  
RAHUL SUNIL  
SRUTHY K.K  
NIKITA J. MENDEZ  
SOHAIL AHAMMED HARRIS P.P.  
NANDITHA S.

RESPONDENT/S:

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

Sr PP Sri C.S Hrithwik

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02.04.2024 along  
with BA 2285/24, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**C.S.DIAS,J**

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**BA Nos.2285 and 2498 of 2024**

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**Dated this the 2<sup>nd</sup> day of April, 2024**

**COMMON ORDER**

“Enactment of a law, but tolerating its infringement, is worse than not enacting law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the Enforcement Authorities encourages lawlessness and adoption of means which cannot, or ought not to be tolerated in any civilized society. Law should not only be meant for law-abiding but is meant to be obeyed by all for whom it has been enacted. A law is usually enacted because the legislature feels that it is necessary.....” observed the Hon’ble Supreme Court in **Indian Council for Enviro-Legal Action vs. Union of India (UOI) and others** [ 1996 (5) SCC 281].

2. The peace of the residents of Puthiyakavau - a densely populated township near Tripunithura, Ernakulam - was shattered on the morning of 12<sup>th</sup> February 2024, by a devastating explosion caused by the violators of law, resulting in the loss of two human lives, leaving numerous injured and

destroying the hopes of the inhabitants of 321 households and beyond.

3. The enduring fascination of the people of our state for pyrotechnics is well-known. Fireworks, commonly known as 'Vedikettu', play a significant role in religious festivities and celebrations. Over the years, the scale, intensity and use of highly potent incendiary chemicals have escalated.

4. Kerala has a grim history of fireworks-related accidents. The haunting memories of the Puttingal fireworks tragedy, where 107 persons perished in the wee hours of 10.04.2016 in a competitive firework showcased in connection with the Puttingal Devi Temple, in blatant defiance of the prohibitory orders of the District Administration, still haunts us and remains as a stark reminder.

5. On the very next day of the Puttingal catastrophe, Justice V. Chitambareesh (as he then was), in his imitable style, penned a poignant letter to the then Chief Justice of this Court, advocating for a ban on high-decibel explosives in the fireworks display, by stating as follows:

"Life is the most precious creation on this planet which cannot be replaced by money and the right to life guaranteed under Article 21 of the Constitution of India is very valuable. The Supreme Court has come down heavily on the animal race - 'Jallikattu' - in the name of religious celebrations and then why not fireworks which consume human lives?

The deafening noise and widespread pollution caused by fireworks add to the woes and miseries of numerous citizens living in the vicinity.

The time is more than ripe for immediate judicial intervention to stop such man-made tragedies by banning the use of the high decibel explosive firecrackers. Pyrotechnics display using 'Amittu', 'Gundu', 'Kathinavedi' etc. have to be banned and at best only low decibel Chinese type crackers can be permitted for display.

Thousands gather to witness this spectacle and even the police personnel find it difficult to ward them away from the spot where the display is often made".

6. The hue and cry regarding the perceived inaction by the enforcement authorities has faded out. Despite a slew of directions passed by the Honourable Supreme Court and this Court, and a plethora of statutory provisions, rules and orders being promulgated imposing stringent restrictions on the display of fireworks, nothing seems to deter the perpetrators, who continue to infringe the law with impunity, which at times is being tolerated by the enforcers.

7. On 11.02.2024, at around 20.30 hours, the Sub Inspector of Police attached to the Hill Palace Police Station,

while on patrolling duty, found explosives stored in the compound of Puthiyakavu Bhagavathy Temple ('Temple', for brevity) for conducting fireworks. Her enquiry revealed that the organizers had no licence to store the explosives or permission to conduct the fireworks. After returning to the Police Station at 23.35 hours, she registered crime No.240/2024 against the President and Secretary of the Temple and ten identifiable persons for the offences punishable under Section 286 of the IPC, Section 118 F of the Kerala Police Act and Section 9 (B) (1) (b) of the Indian Explosives Act, 1885. Yet no action was taken against the accused.

8. Tragically, the next morning i.e., 12.02.2024, at around 10.30 a.m., another set of explosives, which were meant for the fireworks that evening, stored in a shed and a vehicle, about 2 kilometres from the Temple, exploded, resulting in two fatalities, leaving numerous injured and causing damages to hundreds of dwellings. Accordingly, Crime No.242/2024 was registered.

9. The gravamen of the prosecution allegation in Crime No.242/2024 is that: On 12<sup>th</sup> of February 2024, the accused Nos.7, 8, 29 to 31 led by the 1<sup>st</sup> accused (the contractor), on instructions from the accused Nos. 2 to 6 and 9 to 28 - the members of Vadakkumpuram Thalappoli Festival Committee, the Office bearers of Vadakkumpuram Karayogam and the Office bearers of the Temple Devaswom- brought raw materials and explosive substances in a 17 seater tempo traveller van bearing No.KL-07-CB-7133, without any licence or permission from Pothencode, Thiruvananthapuram, being aware that it could cause harm to life and property and even death. The explosives were unloaded and unlawfully stored in a shed built on 70 cents of land belonging to Vadakkumpuram Nair Karayogam, situated on the southern margin of the YMA Road. Due to the careless handling of the explosives, the explosion took place resulting in the death of Vishnu and Anil, causing grievous injuries to 12 persons, extensive damage to 15 nearby houses, leaving them unfit to dwell, and damage to 300 houses and vehicles parked in the locality. The accused Nos. 1

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to 34, including the accused Nos.32 to 34, who harboured the accused persons 9 to 11, have committed the offences punishable under Sections 286, 304, 308, 337, 427, 212 read with 34 IPC, Section 3(a) of Explosive Substances Act 1908 and Section 9(B) (1) (b) of Explosive Act.

10. The accused Nos. 9, 10 and 11 have filed B.A.No.2285/2024 and accused 5, 6 and 14 have filed B.A.No.2498/2024 under Section 439 of the Code of Criminal Procedure to enlarge them on bail. The accused 9, 10 and 11 were arrested on 15.02.2024, the accused 5 and 6 surrendered on 12.02.2024 and the accused 14 surrendered on 20.02.2024.

11. In B.A.No.2285/2024 it is stated that the petitioners have nothing to do with the allegations in Annexure A1 F.I.R. The petitioners are only the office bearers of Temple Devaswom. The accused 1 to 3 are the office bearers of Vadakkumpuram Karayogam and have been mistakenly mentioned as office bearers of the Temple Devaswom in the FIR. The explosives meant for the fire display were procured and stored by the Vadakkumpuram Karayogam in their



property. There are two Karayogams for the Temple, namely, the Thekkumpuram N.S.S Karayogam and the Vadakkumpuram Nair Karayogam. The Thalappoli festival is being conducted by the two Karayogams individually and jointly. The first two days and the last day of the seven-day Thalappoli festival are jointly celebrated. Whereas the 3<sup>rd</sup> and 6<sup>th</sup> day of the festival is conducted by the Thekkumpuram Karayogam and the 4<sup>th</sup> and 5<sup>th</sup> day is conducted by the Vadakkumpuram Karayogam. The 12<sup>th</sup> and 13<sup>th</sup> of February viz., the 4<sup>th</sup> and 5<sup>th</sup> days of the seven-day festival, was conducted by the Vadakkumpuram Karayogam. The Temple Devaswom had not announced or conducted any fire display on the festival days. No sanction was sought or given by the Temple Devaswom to the Vadakkumpuram Karayogam to conduct the fire display, which is evident from Annexure A2 notice. Neither were the explosives stored nor did any explosion take place in the Temple premises. The petitioners and the other office bearers of the Temple Devasom have no role in procuring, transporting or storing the explosives. There are no materials to show the

nexus of the petitioners with the explosives. The explosion took place in the property owned by the Vadakkumpuram Karayogam, which is two kilometres from the Temple. The petitioners have been named accused on technical grounds just to pressurise them to compensate for the loss of property suffered by the local inhabitants. In any case, Sections 304 and 308 of the IPC will not be attracted against the petitioners as they had no knowledge regarding the storage of explosives by the Vadakkumpuram Karayogam. Likewise, Section 4 of the Explosives Substances Act will also not be attracted. The petitioners' applications for bail have been dismissed by the jurisdictional Magistrate and the Court of Session as per Annexures A4 to A6 orders. The Temple Devaswom had taken Annexure A7 special contingency insurance policy for Rs.5/- Crore, to ensure public safety including death, fire and other allied perils. The custodial interrogation of the petitioners is complete and, therefore, their further detention is not necessary. The 1<sup>st</sup> petitioner is 64 years old and is suffering from acute diabetics and high blood pressure. The 3<sup>rd</sup>

petitioner is aged 75 years and is suffering from various age-related ailments and complications. The parents of the second petitioner are aged 87 and 84 and there is no one to look after them. The petitioners' continued detention is causing unbearable hardship, irreparable injury and severe prejudice to them. The petitioners are willing to abide by any stringent condition that may be imposed by this Court. Hence, the application may be allowed.

12. In B.A.No.2498/2024 it is stated that the first petitioner is a senior citizen and is only acting as the Joint Secretary of the Vadakkumpuram Nair Karayogam. He has little power in the absence of the Secretary. The second petitioner is not even a member of any committee and is in no way associated with the functioning of the temple. The third petitioner is only a member of the Puthiyakav Bhagavathy Ultsava Committee. The ultsavam of the Temple is steeped in a historical legacy of half a century. The integral tradition of the fireworks display, a time-honoured practice, forms an inseparable part of these essential traditions along with vela

and thalam among several other longstanding traditions. The Puthiyakavu Bhagavathy Temple Devaswom Committee has a collective representation from both Thekkumpuram (South N.S.S. Karayogam) and Vadakkumpuram (North Nair Karayogam) and is entrusted with the day-to-day operations of the Temple. Fireworks - "vedi vazhipadu" has been separately organised by both Karayogams within the Temple grounds spanning a considerable area. The Vadakkumpuram Karayogam had delegated the responsibility of the vedikkettu vazhipadu to the first accused, who had conducted the same in the last year in a secure manner. The 1<sup>st</sup> accused had assured the committee that he possessed the license and certification for the task. The first accused was to adhere to the instructions of the committee and had agreed to bring the fireworks only on the evening of 12.2.2024, to avoid storage within the temple premises. To ensure safety during the programme, the Karayogam Committee obtained a public liability insurance coverage for Rs.2/- crore (covering a 7 km vicinity of the temple), against potential damages. On 10.2.2024, the Hill

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Palace Police issued a notice, as a customary practice, forewarning the potential liabilities. But, the Police subsequently registered a crime against Thekkumpuram Karayogam, even after the safe execution of their vedikettu on 11.2.2024. On learning the same, the Vadakkumpuram Karayogam decided to suspend the fireworks on their side. Despite instructions and previous arrangements, the first accused brought the fireworks early in the morning. He was informed to halt the final vedikettu and that he could store the explosives in the Karayogam property situated approximately 2 kilometres from the temple because the final decision to call off the fireworks had to be taken. Due to the cancellation of the vedikettu, the Contractor and his workers were directed not to erect any fireworks in the temple. In the meantime, the unfortunate incident happened. None of the committee members were present at the scene of occurrence. The cause of the explosion is unknown. The Vadakkumpuram committee has initiated repairs of 50 damaged houses and is diligently continuing with their efforts to address the damage.

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The President, Secretary and Treasurer of the Vadakkumpuram Karayogam have voluntarily surrendered before the Police. They have been in custody since 12.2.2024 and 21.2.2024. Their bail applications have been dismissed by the Court of Session as per Annexures A1 to A4 orders. The first petitioner is a senior citizen, the second petitioner is not a member of the Karayogam Committee and the third petitioner has contracted chicken pox and is in solitary confinement. The petitioners are willing to abide by any stringent condition that may be imposed by this Court. Hence, the application may be allowed.

13. The Station House Officer has filed a report in B.A.No.2285/2024, inter alia, stating that the annual festival of the temple was conducted on the instructions of the office bearers of the Puthiyakavu Temple Devaswom, the petitioners and the representatives of the Vadakkumpuram talapoli committee, by the contractor and his men, without any valid licence or permission. The firecrackers were brought from Pothencode in a tempo traveller and were stored in the vehicle and a shed at Choorakad. On 12.02.2024, at around 10.30 am,

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the blast took place resulting in the death of two persons, leaving several injured and a trail of destruction of houses and vehicles of the people in the locality. As per the order of the Deputy Commissioner of Police (Law & Order, Kochi City), the investigation has been entrusted to the Assistant Commissioner of Police, Thrikkakara. Neither the police nor the statutory authorities have given any license or permission to the temple devaswom or the Vadakkumpuram talapoli festival to conduct the fireworks. Even though advance notices were served on the office bearers of the Vadakkumpuram talapoli committee and the Puthiyakavu temple Devaswom, directing them to refrain from conducting the fire display, they secretly brought and stored the firecrackers. The petitioners have violated the directions of the Police. The petitioners have no regard for the rule of the land and law enforcement agencies. The illegal action of the petitioners has caused the loss of two lives, injuries to six persons and damage to 321 dwellings. During the investigation, the notice published by the temple devaswom was seized. The notice clearly states

that the festival is being conducted under the aegis of the Puthiyakavu temple devaswom and it contains the details of the committee members. The names of the petitioners figure in the notice, as the office bearers having charge of the Puthiyakavu temple devaswom and its festival. The accused Nos.9, 10 & 11 are the President, Secretary and committee member, respectively of the Puthiyakavu temple devaswom. The investigation in the case is at a preliminary stage. If the petitioners are enlarged on bail, it would adversely affect the investigation. There is every likelihood of the petitioners tampering with the evidence and also fleeing from justice. Therefore, the applications may be dismissed.

14. Heard; Sri. B Raman Pillai, the learned Senior Counsel appearing for the petitioners in BA No.2285/2024, Sri.P.Vijayabhanu, the learned Senior Counsel appearing for the petitioners in BA No.2498/2024 and Sri. C.S Hrithwik and Smt.Neema T.V., the learned Senior Public Prosecutors.

15. The learned Senior Counsels reiterated the contentions in their respective bail applications. In addition to



the said contentions, Sri. B Raman Pillai argued that other than for the petitioners in B.A.No.2498/2024, most of the other accused are the office bearers of the Vadakkumpuram Talapoli committee and the Vadakkumpuram Karayogam. The accused Nos. 32 to 34 have already been enlarged on bail. A reading of Annexure – A2 notice would reveal that the Thekkumpuram Karayogam had no role in the explosion. The remand extension report also would show that the allegations are levelled against the accused Nos.12 to 25. In any given case, the petitioners have been in judicial custody since 15.02.2024. Therefore, they may be released on bail. Sri.P.Vijayabhanu contended that the 5<sup>th</sup> accused is only the Joint Secretary of the Vadakkumpuram Karayogam, the 14<sup>th</sup> accused is the member of the Puthiyakavu Kshethra Committee and the 6<sup>th</sup> accused had no role in the entire episode. There is only an omnibus allegation against him. The explosion took place due to negligence of the contractor. The petitioners were unaware that the contractor did not have the requisite licence to store and use the explosives. The petitioners have been in judicial

custody since 12.02.2024 and 20.02.2024. The investigation in the case is practically complete and recovery has been effected. Therefore, the petitioners' further detention is not warranted. Hence, the application may be allowed.

16. The learned Public Prosecutors seriously opposed the applications. They contended that despite the Police serving advance notices on the Puthiyakavu Temple Devaswom and the Vadakkumpuram Thalapoli Committee, directing them to refrain from conducting the fireworks, the accused had stealthily brought and stored huge quantity of explosives in the locality.

On the previous night of the incident, the Police had registered Crime No.240/2024 against the same petitioners for storing explosives in the compound of the Puthiyakavu Temple. It is after the said crime was registered that; the explosives involved in the present crime were brought from Pothencode by the first accused. It is only because the office bearers of the Devaswom and Thalapoli Committee ordered the explosives, the same were brought from Pothencode. The petitioners cannot shirk away their liability by stating that the

explosion happened due to the laches and negligence of the Contractor. The investigation is only at its nascent stage. There are incriminating materials to establish the petitioners' active involvement in the crime. The notices that have been seized undoubtedly substantiate that the petitioners were in charge of the affairs and management of the Temple and its festival. Two persons have lost their lives, numerous have been injured and 321 dwellings, as of now, have been extensively damaged. If the petitioners are enlarged on bail, it would torpedo the investigation. The petitioners will intimidate the witnesses and it would send a wrong message to the society. Hence, the applications may be dismissed.

17. On an analysis of the materials placed on record, it can be deciphered that Crime No.240/2024 was registered by the Police on 11.02.2024 at 23.35 hours against the members of the Puthiyakavu Temple Committee, the office bearers of the Thekkumpuram Karayogam and others for storing explosives in the Temple compound without any licence. Then, on the following day, i.e., 12.02.2024, at around 10.30 hours, the

explosives which were brought from Pothencode in a tempo traveller and were stored in the vehicle and a shed at Choorakad, about two kilometres from the temple, detonated.

18. In B.A.No.2285/2024, the petitioners have alleged that Thekkumpuram Karayogam had no role in the explosion because the incident took place on the fourth and fifth days of the festival, which were the days exclusively set apart for the Vadakkumpuram Karayogam, and the explosion took place in the property belonging to the Vadakkumpuram Karayogam.

19. In B.A.No.2498/2024, the petitioners have stated that the Puthiyakavu Temple Devaswom committee is a collective representation of the Thekkumpuram and Vadakkumpuram Karayogams, who are entrusted the day-to-day affairs of the Temple. The fireworks are a time-honoured practice and form an inseparable portion of essential tradition. The Vadakkumpuram Karayogam had delegated the responsibility of conducting the fireworks to the 1<sup>st</sup> accused, who had securely conducted the same in the last year. It was believing his assurance that they asked him to conduct the

fireworks. However, when the Hill Palace Police issued notice to them on 10.02.2024 and since the crime was registered against the Thekkumpuram Karayogam on 11.02.2024, they informed the first accused to halt the fireworks. But unfortunately, the explosion took place.

20. In the report filed by the Investigating Officer it is, inter-alia, stated that the explosives were brought to the place of occurrence upon the instructions of the office bearers of the Puthiyakavu Temple Devaswom without any valid licence or permission, that too from Pothanithakad, a place which is about 200 kilometres from the Temple, in a van and was stored in a shed and the vehicle. Copies of the advance notices, which were served on the office bearers of the Temple Devaswom as well as the Thalapoli Committee to refrain from conducting the fireworks, have been handed over to this Court. They unambiguously reveal that the Temple Devaswom and the Thalapoli Committee was directed not to conduct the fireworks. Yet, by throwing to the winds the directions of the Police, the members of the Temple Devaswom and the

Thalapoli Committee had stealthily brought and stored huge quantities of explosives both in the temple, the vehicle and a shed at Choorakad. It was the second consignment, which was brought by the 1<sup>st</sup> accused, that exploded. The Investigating Officer states that he has seized incriminating materials which shows that the festival was conducted by the Puthiyakavu Temple Devaswom and the petitioners are its office bearers.

21. It is stated in B.A.No.2498/2024 that the conduct of fireworks is an integral part of the Puthiyakavu Devi Temple Utsavam and the Puthiyakavu Devi Temple Committee is a collective representation of both the Thekkumpuram and Vadakkumpuram Karayogams, who conduct the festival on a mutual agreement between them. It is not disputed that the accused 9 to 11 are the office bearers of the Puthiyakavu Devi Temple Devaswom and the accused 5 and 14 are the Joint Secretary of the Vadakumpuram Karayogam and members of the Ultsava Committee, respectively. The 6<sup>th</sup> accused is alleged to have no role in the affairs of the Temple but has been implicated since he was present in the temple premises.

22. It is too premature to conclude in these applications, whether the explosives were ordered by the Vadakkumpuram Karayogam without the knowledge of the Puthiyakavu Devi Temple Devaswom, the Thekkumpuram Karayogam and the Ultsava Committee. Moreover, a detailed examination of the evidence and an elaborate documentation of the merits of the case cannot be undertaken at this stage. The fact remains that, notwithstanding the Police issuing advance notices and forwarning the office bearers of the Vadakkumpuram talapoli committee and the Puthiyakavu temple Devaswom, from conducting the fireworks, they took law into their own hands and showed the boldness to store explosives in the Temple compound on the previous day and then bring explosives from Pothencode on the following day, and store them in a shed and van at Choorakad.

23. On a prima facie appreciation of the materials placed on record, it is apparent that the fireworks proposed to be held on 12.02.2024 were in connection with the celebration of the Puthiyakavu Devi Temple festival, for which both the

Karayogams and the Committees have an integral part to play. It is to conduct the fireworks, despite the advance notices issued by the Police, the accused possessed and stored the explosives without any licence or permission. It is after the explosion, that the office bearers of the temple, Karayogams and the committees are attempting to wash away their hands by renouncing their liabilities. The explosion has resulted in the loss of two lives, injuries to many and substantial damage to 321 dwellings. The materials prima facie substantiate the involvement of the petitioners in the crime. The accusations levelled against the petitioners are grave. It is well settled that merely because the petitioners have undergone a certain period of detention, the same is not a circumstance to enlarge them on bail if the offences are serious.

24. It is trite law that the exceptional power to enlarge an accused on bail under Section 439 of the Code is wide-ranging and discretionary, and is to be exercised judicially.



25. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee and Anr.*** [(2010) 14 SCC 496], the Honourable Supreme Court has observed as follows:

"9. .... It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are: (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;(ii) nature and gravity of the accusation: (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and danger, of course, of justice being thwarted by grant of bail."

26. Similarly, in ***Kalyan Chandra Sarkar v. Rajesh Ranjan Alias Pappu Yadav and another*** [(2004) 7 SCC 528], the Honourable Supreme Court has held that while considering a bail application, a detailed examination of the evidence and an elaborate documentation of the merits of the case need not be undertaken. Nonetheless, the nature of the accusation, the severity of the punishment, reasonable apprehension of the accused tampering with the evidence or the apprehension of the threat to the complainant and prima facie satisfaction of the court in support of the charge should be looked into.

27. In ***Mahipal v. Rajesh Kumar*** [(2020) 2 SCC 118], the Hon'ble Supreme Court has held thus:

"12. The determination of whether a case is fit for the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a prima facie view of the involvement of the accused are important. No straitjacket formula exists for courts to assess an application for the grant or rejection of bail. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the accused. That is a matter for trial. **However, the Court is required to examine whether there is a prima facie or reasonable ground to believe that the accused had committed the offence and on a balance of the considerations involved, the continued custody of the accused subserves the purpose of the criminal justice system.** Where bail has been granted by a lower court, an appellate court must be slow to interfere and ought to be guided by the principles set out for the exercise of the power to set aside bail."

28. On a conspectus of the facts, the rival submissions made across the Bar and the materials placed on record, and on comprehending the nature, seriousness and gravity of the accusations levelled against the petitioners, the potential severity of the punishment that is likely to be imposed on them, and on prima facie finding the involvement of the petitioners in the crime, that the investigation in the case is only at its nascent stage and the reasonable apprehension

projected by the prosecution that the petitioners may tamper with the evidence, I am of the firm view that the petitioners are not entitled to be enlarged on bail. If the petitioners are enlarged on bail, it would have a deleterious impact on the society and justice would be thwarted. Therefore, the applications are only to be rejected. Any observation made in this common order is only to decide the applications and the same shall not be construed as an expression on the merits of the case, which shall be decided by the competent court (s).

29. On visualising the trail of miseries of the hundreds of innocent people, due to illegal action of the infringers of law, with the tolerance of the enforcers, and that the locality is said to be covered by public liability insurance coverage, I am convinced that the matter warrants the emergent intervention of the Kerala Legal Services Authority (KELSA), especially because lives and property of many are in peril. Therefore, KELSA is directed to explore the possibility of organizing an Adalath and making an endeavour to redress the grievances of the persons affected by the explosion. With the above

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observation, the bail applications are dismissed. The Registry is directed to forward a copy of this common order to the Member Secretary, Kerala Legal Services Authority.

SD/-

Sks/30.3.2024

**C.S.DIAS, JUDGE**