

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 2ND DAY OF SEPTEMBER 2022 / 11TH BHADRA, 1944

BAIL APPL. NO. 6597 OF 2021

CRIME NO.570/2021 OF Feroke Police Station, Kozhikode

PETITIONER/ACCUSED:

K.M.BASHEER,
AGED 61 YEARS, S/O. K.M. UNNI HASSAN,
SAHIDA MANZIL,
KARUVANTHIRUTHY P.O.,
KOZHIKODE.

BY ADVS.
SRI.P.P.JACOB
SMT.MARIYAM JACOB
SMT.MARIYA TITTY

RESPONDENTS/COMPLAINANTS/STATE:

- 1 RAJANI K.T.,
VELUTHEDATH HOUSE,
DREAM HUT, NALLUR, FEROKE,
KOZHIKODE-673631.
- 2 THE STATION HOUSE OFFICER/ASSISTANT
COMMISSIONER OF POLICE,
FEROKE POLICE STATION, FEROKE,
KOZHIKODE-673631.
- 3 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM-682031.

BY ADVS.
SRI.K.A.NOUSHAD, PUBLIC PROSECUTOR
SRI.C.S.MANILAL
SRI.S.NIDHEESH
SRI.K.K.DHEERENDRA KRISHNAN, AMICUS CURIAE

B.A. No.6597/21 & Conn. Cases

-:2:-

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
22.08.2022, ALONG WITH Bail Appl.NOS.8219/2021, 1242/2022 &
4346/2022, THE COURT ON 02.09.2022 PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 2ND DAY OF SEPTEMBER 2022 / 11TH BHADRA, 1944

BAIL APPL. NO. 8219 OF 2021

CRIME NO.570 OF 2021 OF HEMAMBIKA NAGAR POLICE STATION,
PALAKKAD

PETITIONER/2ND ACCUSED:

BINEESH,
AGED 25 YEARS, S/O. UDAYAKUMAR,
KRIPA NIVAS,
PAITTAMKUNNU, DHONI,
PALAKKAD.

BY ADVS.
SRI.V.M.KRISHNAKUMAR

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM 682 031.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
PALAKKAD 678 014.
- 3 THE STATION HOUSE OFFICER,
HEMAMBIKA NAGAR POLICE STATION,
ATHIRA NAGAR, PUTHUPPARIYARAM,
PALAKKAD DISTRICT 678 009.
- 4 ANITHA.M.
AGED 34 YEARS, W/O. ABDUL AZEEZ,
E.M.S. NAGAR, IST LANE, DHONI,

B.A. No.6597/21 & Conn. Cases

-:4:-

PALAKKAD 678 009.

BY SRI.K.A.NOUSHAD, PUBLIC PROSECUTOR

ADV. V.A.VINOD

SRI.K.K.DHEERENDRA KRISHNAN, AMICUS CURIAE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 22.08.2022, ALONG WITH Bail Appl.NO.6597/2021 & CONN.
CASES, THE COURT ON 02.09.2022 PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 2ND DAY OF SEPTEMBER 2022 / 11TH BHADRA, 1944

BAIL APPL. NO. 1242 OF 2022

CRIME NO.1503 OF 2021 OF KURAVILANGADU POLICE STATION,

KOTTAYAM

PETITIONER/ACCUSED:

SHINY SATHYAN
AGED 50 YEARS, D/O SUMATHY SATHYAN,
CHOLLANAL HOUSE,
KURAVILANGAD P O,
KOTTAYAM, PIN 686633

BY ADVS.
SRI.R.T.PRADEEP
SRI.BINDUDAS M

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

- 1 THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM - 682 031
- 2 DEEPA V
AGED 39, WIFE OF SATHEESH,
PULINILKKUMTHADATHIL VEEDU,
KADUVAKKUZHY BHAGAM,
KURAVILANGAD, KOTTAYAM, PIN 686633

B.A. No.6597/21 & Conn. Cases

-:6:-

BY ADVS.

SRI.K.A.NOUSHAD, PUBLIC PROSECUTOR

SRI.GEORGIE JOHNY

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 22.08.2022, ALONG WITH Bail Appl.NO.6597/2021 & CONN.
CASES, THE COURT ON 02.09.2022 PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 2ND DAY OF SEPTEMBER 2022 / 11TH BHADRA, 1944

BAIL APPL. NO. 4346 OF 2022

CRIME NO.472 OF 2022 OF ERNAKULAM SOUTH POLICE STATION

PETITIONER/ACCUSED:

DINESH M.
AGED 43 YEARS
NAISSERY HOUSE,
NEW LANE, THOTTAKATTUKARA,
ALUVA, ERNAKULAM, PIN - 683108

BY ADVS.
SRI.K.DHRUV KUMAR
SRI.SHAKTHI PRAKASH
SRI.HARIKRISHNAN M.S.

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031
- 2 ASSISTANT COMMISSIONER OF POLICE
ERNAKULAM, PIN - 682015
- 3 STATION HOUSE OFFICER
ERNAKULAM TOWN SOUTH POLICE STATION,
PIN - 682015
- 4 XXXX

BY ADVS.
SRI.K.A.NOUSHAD, PUBLIC PROSECUTOR
SRI.K.R.VINOD
SMT.M.S.LETHA

B.A. No.6597/21 & Conn. Cases

-:8:-

SMT.K.S.SREEREKHA
SRI.NABIL KHADER
SRI.JOHN TONY AKKARA

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 22.08.2022, ALONG WITH Bail Appl.NO.6597/2021 & CONN.
CASES, THE COURT ON 02.09.2022 PASSED THE FOLLOWING:

"C.R."

BECHU KURIAN THOMAS, J.

**B.A. Nos.6597, 8219 of 2021 &
1242, 4346 of 2022**

Dated this the 2nd day of September, 2022

ORDER

This court is called upon to resolve an apparent incongruity in the matter of grant of anticipatory bail to those alleged to have committed offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the SC/ST Act'). When the said statute provides an absolute prohibition on the applicability of the provisions of section 438 of Cr.P.C, the Supreme Court had, in **Prathvi Raj Chauhan v. Union of India and Others** [(2020) 4 SCC 727] observed that if the complaint does not make out a prima facie case for applicability of the provisions of the SC/ST Act, the bar created by section 18 and section 18A(1), shall not apply. The difficulty arises as to the forum where the absence of prima facie case can be agitated. The difficulty is compounded by the observations in

the aforementioned judgment coupled with the creation of Special Courts and the conferment of appellate jurisdiction on the High Court under sections 14 and 14A of the SC/ST Act.

2. Petitioners in these four cases are alleged to have committed offences punishable under the SC/ST Act. Petitioners in B.A No. 6597/2021 and B. A No. 1242/2022 have invoked the jurisdiction of this Court under section 438 of the Code of Criminal Procedure 1973, (for short, Cr.P.C) without having approached any other Court. Petitioners in B.A No. 8219/2021 had filed an application for anticipatory bail before the Special Court, which was dismissed as not maintainable, while petitioner in B.A No. 4346/2022 had approached the Sessions Court which was dismissed after finding that a prima facie case under the SC/ST Act is made out.

3. When B.A No. 6597/2021 and B.A No. 8219 of 2021 came up for consideration on 14-12-2021, a learned Single Judge of this Court (P. Gopinath J.) raised two significant questions relating to the implication of the observations of the Supreme Court in **Prathvi Raj Chauhan's** case vis-a-vis the forum for considering the anticipatory bail applications. Later, B.A No.

4346/2022 and B.A No. 1242/2022, were also heard along with the earlier mentioned cases, at the request of the respective Counsel. Hence the questions were required to be altered and the same are rephrased as follows:

“(i) In view of the observations in Prathvi Raj Chauhan’s case, whether the High Court alone has jurisdiction to consider an application under section 438 or under section 482 of Cr.P.C?

(ii) In view of the observations in Prathvi Raj Chauhan’s case, whether the High Court has concurrent jurisdiction to consider an application under section 438 of Cr.P.C?

(iii) In view of the observations in Prathvi Raj Chauhan’s case, can an accused, whose application for anticipatory bail was rejected by the Special Court or the Sessions Court, file another application under section 438 of the Cr.P.C before the High Court or should it be by an appeal under section 14A of the Act?

(iv) In view of the observations in Prathvi Raj Chauhan’s case, is it the Sessions Court or the Special Court that must consider the application for anticipatory bail?”

4. To assist the court in answering the above questions, Adv.K.K.Dheerendra Krishnan was appointed as Amicus Curiae and he argued the matter exhaustively. I also heard the arguments of Adv. S.Manilal, who argued with great elan, along

with Adv. K.R.Vinod, Adv. R.T. Pradeep, Adv.K.L. Dhruv Kumar, and Adv. Georgie Johny as well as Sri.K.A.Noushad, the learned Public Prosecutor.

5. In order to comprehend the contours of the questions formulated by this Court, it is necessary to mention that section 18 of the SC/ST Act created a bar for entertaining applications for anticipatory bail. However, by the judgment in **Dr. Subhash Kashinath Mahajan v. State of Maharashtra and Another** [(2018) 6 SCC 454], it was held that anticipatory bail could be granted if a prima facie case of commission of an offence under the Act is not made out or if it can be shown that the allegations were false. Other directions were also issued by the Court in the aforesaid decision. Subsequently, by the judgment in **Union of India v. State of Maharashtra and Others** [(2020) 4 SCC 761] few of the directions issued in **Dr. Subhash Kashinath's** judgment were reviewed. In the meantime, section 18A of the SC/ST Act was introduced to overcome the rigour of the aforementioned judgments. The validity of the said amendment was considered by the Supreme Court in the decision in **Prathvi Raj Chauhan's case** (supra). While affirming and reiterating the

right of an applicant to seek anticipatory bail, despite the bar under sections 18 and 18A of the SC/ST Act, the Supreme Court made certain observations, which are as follows:

"11. Concerning the applicability of provisions of Section 438 Cr.PC, it shall not apply to the cases under the 1989 Act. However, if the complaint does not make out a prima facie case for applicability of the provisions of the 1989 Act, the bar created by Sections 18 and 18A(i) shall not apply. We have clarified this aspect while deciding the review petitions.

12. The Court can, in exceptional cases, exercise power under section 482 Cr.P.C for quashing the cases to prevent misuse of provisions on settled parameters, as already observed while deciding the review petitions. The legal position is clear and no argument to the contrary has been raised."

6. In the concurring Judgment, it was also observed that:

"32. As far as the provision of Section 18-A and anticipatory bail is concerned, the judgment of Mishra, J., has stated that in cases where no prima facie materials exist warranting arrest in a complaint, the court has the inherent power to direct a pre-arrest bail.

33. I would only add a caveat with the observation and emphasise that while considering any application seeking pre-arrest bail, the High Court has to balance the two interests: i.e. that the power is not so used as to convert the jurisdiction into that under Section 438 of the Criminal Procedure Code, but that it is used sparingly and such orders made in very exceptional cases where no prima facie offence is made out as shown in the FIR, and further also that if such orders are not made in those classes of cases, the result would inevitably be a miscarriage of justice or abuse of process of law. I consider such stringent terms, otherwise contrary to the philosophy of bail, absolutely essential, because a liberal use of the power to grant pre-arrest bail would defeat the intention of Parliament."

7. The above-quoted observations are the basis of the arguments raised by the learned counsel for the petitioners in their claim that anticipatory bail applications are maintainable before this Court either under section 438 or section 482 of the Cr.P.C.

8. While the learned Amicus, along with Adv. S.Manilal, Adv. K.R.Vinod, and Adv. Georgie Johny apart from Sri. K.A Noushad, the learned Public Prosecutor argued for the proposition that anticipatory bail applications can be filed only before the Special Courts created under the Act, Adv. R.T. Pradeep contended that the application can be filed only before this Court, and the power under section 482 Cr.P.C alone can be exercised for granting anticipatory bail. Adv. K.L. Dhruv Kumar, Adv. P.P Jacob, and Adv. V.M Krishnakumar argued for the proposition that anticipatory bail can be filed before the Sessions Court and the High Court concurrently.

9. To avoid prolixity, the various contentions put forth by the learned counsel are concisely stated as below:

(a) The observations in **Prathvi Raj Chauhan's case** indicate that notwithstanding the bar under sections 18 and 18A

of the Act, an application for anticipatory bail is maintainable concurrently in the Sessions Court as well as in the High Court.

(b) The application for anticipatory bail can be filed only before the Special Court or Exclusive Special Court, and if rejected, an appeal alone will lie to the High Court.

(c) The application for anticipatory bail can be considered only in exercise of the inherent power under section 482 of Cr.P.C and therefore, it is maintainable only before the High Court.

10. In support of their respective contentions, numerous decisions were cited. To avoid verbiage, the relevant decisions are referred to at the appropriate state. Since the questions formulated are interconnected, they are considered together.

11. After the decisions in **Dr. Subhash Kashinath Mahajan** and that in **Prathvi Raj Chauhan**, the legal position is that, an anticipatory bail, in a crime where an offence under the SC/ST Act is alleged, can be granted only if the court is satisfied that the allegations levelled do not prima facie make out a case under the SC/ST Act. In view of the latter decision, the position of law regarding the power of the court to grant anticipatory bail remains almost the same as that laid down in the former

judgment despite the review judgment and the enactment of section 18A of the Act.

12. It is trite law that the power to grant anticipatory bail is statutory in character. The aforementioned power can be traced to section 438 of Cr.P.C, which is no doubt concurrent in nature, being vested with both the Sessions Court as well as the High Court.

13. However, the SC/ST Act has carved out a special procedure, and Special Courts/Exclusive Special Courts for dealing with the cases involving offences against the Scheduled Castes and Scheduled Tribes have been established. The words 'Special Court' and 'Exclusive Special Court' are defined in S.2(d) and S.2(bd), while the Special Court and Exclusive Special Court are dealt with under section 14 of the Act. A reading of the said provision is indicative of the exclusivity of the Special Courts contemplated by the Parliament.

14. Apart from the above, the special scheme contemplated under the Act indicates a deviation from the general law and confers upon the Special Courts, certain exclusive and distinctive powers hitherto not available under the general laws. The power

to take direct cognizance and Chapter IVA, dealing with the 'Rights of Victims and Witnesses' are both a paradigm shift from the general law. Further section 15A provides a right for the victim to apply to the Special Court to summon any party for production of documents, conferred a right for the victim to be heard even in the matter of bail, a right to obtain complete protection, confers power on the Special Court to grant travelling, and maintenance expenses and to order rehabilitation of the victim even during the investigation stage, apart from the power to take action and pass orders for the protection of the victim during all stages of investigation, inquiry and trial. Such powers are absent in a regular court. On a consideration of the entire scheme of the Act, including the powers of the Special Courts, it can be concluded that the Act has given primacy and exclusivity to the Special Courts, to the expulsion of the normal Courts. The above-noted intention of the Parliament cannot be ignored while considering the questions raised.

15. Having concluded that exclusivity has been given to the Special Courts established under the SC/ST Act, it is necessary to consider the nature of bail that can be granted by such

Courts. Section 14A(1) & (2) of the SC/ST Act provides for an appeal to the High Court against any order other than an interlocutory order and also against an order granting or refusing bail. In this context, it is appropriate to notice the decision of this Court in **Mammunhi Thalangadi Mahamood v. State of Kerala** [2014 (1) KLT 132], where, while considering a case under the National Investigation Agency Act 2008, it was observed that the expression 'bail' used in the said Act would include 'regular bail' as well as 'anticipatory bail'. The said interpretation was adopted to avoid unintelligible results ensuing from a literal interpretation of the provisions of the statute. In fact, an almost similar provision as Section 14A(2) of SC/St Act is existing in section 21(4) of the NIA Act.

16. Thus, if, despite the bar under sections 18 and 18A of the SC/ST Act, if anticipatory bail can be granted, as observed in **Prathvi Raj Chauhan's** case, obviously, the same can only be in the exercise of the power to grant bail. In order to avoid unintelligible, incongruous, and vague results and also to avoid confusion among all persons, it is necessary to assign an effective meaning to the expression 'bail' in section 14A of the

SC/ST Act, also. Thus the word bail in section 14A(2) would include anticipatory bail also.

17. Section 14A has conferred only an appellate jurisdiction on the High Court in contradistinction to original jurisdiction for the grant of bail. The use of the non-obstante clause in the provision indicates the intention of the legislature to exclude a dichotomy of jurisdiction upon the High Court to handle bail applications in its original and appellate jurisdiction. This is the inevitable conclusion that can follow from the words used in section 14A and the scheme of the SC/ST Act.

18. In this context, it is fruitful to refer to a few decisions of the Supreme Court which are relevant. In **Usmanbhai Dawoodbhai Memon and Others v. State of Gujarat** [(1988) 2 SCC 271], while considering the question of exclusion of jurisdiction of the High Court under the provisions of the TADA Act, it was held that having regard to the provisions of the TADA Act there was a complete exclusion of jurisdiction of the High Court to entertain a bail application under section 439 of the Cr.P.C.

19. Similarly, in the decision in **State of Andhra Pradesh**

through Inspector General, National Investigation Agency v. Mohd. Hussain alias Saleem [(2014) 1 SCC 258], while dealing with the provisions of the MCOC Act, 1999 and UAPA Act, 1967, it was held that, in those statutes, the offences were triable only by a Special Court and an application for bail had to be moved before the Special Court itself. After considering the various provisions, the Supreme Court concluded that the remedy of an application for bail under section 439 or under section 482 is barred, and the application had to be filed before the Special Court itself.

20. Yet again, in the decision in **State of Gujarat v. Salimbhai Abdulgaffor Shaikh and Others** [(2003) 8 SCC 50], while dealing with a case under POTA, the Supreme Court held that once a bail application is rejected, the party will have to move the High Court in appeal. It was further observed that it would be too incongruous a situation where the High Court exercised its jurisdiction on its original side as well as on its appellate side and to interpret a provision in such a manner would be an anomaly.

21. With the aforesaid principles in mind, when the scope

of section 14A of SC/ST Act is appreciated, it is evident that a specific right of appeal to the High Court, has been given against 'any order granting or refusing bail'. Further, a conscious and explicit intention is revealed from the provisions of the SC/ST Act to exclude the exercise of jurisdiction under section 438 of the Cr.P.C. However, taking note of the mandate of the Constitution, the Supreme Court observed in **Prathvi Raj Chauhan's** case that the powers for granting anticipatory bail can be exercised only in exceptional circumstances, and in the concurring judgment, it was observed that the 'Court has the inherent power to direct a pre-arrest bail'.

22. Though great weight ought to be given to the language actually used by a Judge, there is always a peril in treating the words of a judgment as though they are statutory enactments. It is elementary that a judgment of the Supreme Court or that of a High Court ought not to be interpreted as a statute. It is pertinent to refer to the decision in **M/s Amar Nath Om Prakash and Others v.State of Punjab and Others** [(1985) 1 SCC 345], wherein Justice O Chinnappa Reddy in his inimitable style, explained that "*observations of the learned judges are not*

to be read as Euclid's theorems, nor as provisions of the statute. These observations must be read in the context in which they appear. We consider it proper to say, as we have already said in other cases, that judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussion but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes, their words are not to be interpreted as statutes." Thus the observations in **Prathvi Raj Chauhan's** case cannot be interpreted to mean that the express stipulation in the statute and the scheme of the statute has to be ignored.

23. In this context, it is also relevant to mention that in the decision in **Ajan G. Krishnan v. State of Kerala** [2017 (1) KLT 488], the learned Single Judge [Raja Vijayaraghavan J.] held that only the Courts constituted under S.14 of the Act can have jurisdiction to entertain an application for bail and the power of the Court of Sessions and of the High Court in its original criminal jurisdiction to entertain an application under S.438 or

S.439 of the Cr.P.C had been impliedly taken away by S.14A of the said Act. This Court went on to hold that an appeal will lie only against an order of the Special Court or the Exclusive Special Court and unless there is an order of the Special Court refusing bail, the accused will have no right to file an appeal before the High Court praying for grant of bail to them. The existence of an order of the Special Court was held to be a sine qua non for approaching the High Court.

24. The judgment in **Ajan G. Krishnan's** case was affirmed by the Division Bench in **Sharon A. S and Others v. State of Kerala** (ILR 2018 (3) Ker. 986).

25. The principles laid down by all the decisions mentioned above reiterate and point to the explicit intention of the Parliament to exclude the original jurisdiction of the High Court for granting bail. There is also an explicit intention to exclude the jurisdiction of the High Court to grant anticipatory bail. The statute, therefore, in its express stipulation, clearly indicates that a bail application can be filed under the SC/ST Act only before the Special Court or the Exclusive Special Court. The original jurisdiction of the High Court under section 438 of Cr.P.C

is therefore, expressly and by necessary intendment completely excluded. I am fortified in my above view by the decision of the Full Bench of the Allahabad High court in **In Re Provisions of section 14A of SC/ST (Prevention of Atrocities) Amendment Act, 2015** (2018 Cri.LJ 5010).

26. There is yet another aspect. The question of the absence or existence of a prima facie case under the SC/ST Act is a finding of fact. The said finding of fact may have to be set aside, if an aggrieved party requires an order from a superior forum. Without setting aside the said finding, if a concurrent jurisdiction is given, it would again result in an anomalous situation where two contradictory orders may remain - one stating that a prima facie case is made out and another stating that a prima facie case is not made out. Such contradictory orders are not conducive to the rule of law.

27. Thus, once the original jurisdiction of the High Court for grant of bail is excluded, an application for anticipatory bail invoking the concurrent jurisdiction under section 438 Cr.P.C, which is also original in its nature and scope stands excluded. Consequently, the appellate jurisdiction alone can be exercised

by the High Court, under section 14A.

28. Similarly, the Special Courts alone have jurisdiction to consider the bail applications and not the Sessions Court. It is a different matter that the Sessions Courts in Kerala are notified as the Special Courts. Notifying the Sessions Courts as Special Courts cannot derogate from the requirement of the statute, that, only the Special Court can consider the matters including applications for bail arising under the SC/ST Act.

29. In view of the above discussions, the following conclusions are arrived at:

(i) In cases alleging offences under the SC/ST Act, an application for anticipatory bail can be filed only before the Special Court or the Exclusive Special Court, as the case may be, and not before the High Court.

(ii) The High Court has neither concurrent jurisdiction under section 438 nor original jurisdiction under section 482 of Cr.P.C. Similarly the Sessions Courts also do not have the jurisdiction to grant anticipatory bail.

(iii) The Special Court, while dealing with an application for

anticipatory bail must first ascertain whether a prima facie case for an offence punishable under the Act is made out. If the answer is 'Yes', the bar under sections 18 and 18A of the SC/ST Act will come into play and there cannot be any further consideration on the entitlement of anticipatory bail. If the answer to the above question is 'No', the Special Court will be entitled to consider the anticipatory bail application on merits.

(iv) The order granting or rejecting the anticipatory bail will be subject to the appellate jurisdiction of the High Court under section 14A of the Act.

30. In view of the above conclusions, all these four bail applications i.e; B.A. No.6597/2021, B.A. No.8219/2021, B.A. No.1242/2022 and B.A. No.4346/2022 are dismissed. Applicants in B.A. No.6597/2021 and B.A No.1242/2022 will be at liberty to approach the Special Court for appropriate reliefs while petitioners in B.A No. 8219/2021 and B. A No. 4346/2022 will be at liberty to move the Appellate Court in accordance with law.

31. Before concluding, I must express my deep appreciation for the efforts of Adv.K.K.Dheerendra Krishnan, the learned Amicus Curiae. I must also express the appreciation of this Court for the

erudite arguments of Adv.C.S.Manilal, Adv.R.T.Pradeep, Adv.Dhruv Kumar and Adv.K.R.Vinod, who deserves mention for their significant contributions.

The bail applications are all dismissed.

**BECHU KURIAN THOMAS
JUDGE**

vps