

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 07TH DAY OF AUGUST 2019 / 16TH SRAVANA, 1941

Bail Appl..No.4278 OF 2019

AGAINST THE ORDER IN CRL.MC 1015/2019 DATED 15-05-2019 OF
ADDITIONAL DISTRICT COURT & SESSIONS COURT - VII, ERNAKULAM

CRIME NO.843/2019 OF Hill Palace Police Station , Ernakulam

PETITIONER/A2:

SREENISH,AGED 27 YEARS
S/O. LATE SURESH, MURIKKUMTHARAPARAMBIL HOUSE,
MATTANCHERRY VILLAGE, KOCHI 682 002

BY ADVS.
SRI.VARGHESE C.KURIAKOSE
SHRI.SUSANTH SHAJI

RESPONDENT/S:

1 STATE OF KERALA
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KEREALA,
ERNAKULAM 682 031

2 SUB INSPECTOR OF POLICE,
HILL PALACE POLICE STATION, TRIPUNITHURA 682 301

BY ADVS.
DIRECTOR GENERAL OF PROSECUTION
SRI.SUMAN CHAKRAVARTHY, SENIOR GOVT.PLEADER

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 07.08.2019,
ALONG WITH Bail Appl..4375/2019, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 07TH DAY OF AUGUST 2019 / 16TH SRAVANA, 1941

Bail Appl..No.4375 OF 2019

AGAINST THE ORDER/JUDGMENT IN CRMC 1015/2019 OF ADDITIONAL
DISTRICT COURT & SESSIONS COURT - VII, ERNAKULAM

CRIME NO.843/2019 OF Hill Palace Police Station , Ernakulam

PETITIONER/ACCUSED NO.5:

AJMAL, AGED 29 YEARS
S/O.K.UBAID, RESIDING AT KANDATHIL, NO.7/147,
CHAKKAMADAM, KOCHI-682002

BY ADVS.
SMT.I.SHEELA DEVI
SHRI.PRADEEP BABU P.D.

RESPONDENT/COMPLAINANT/STATE:

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

BY ADV. DIRECTOR GENERAL OF PROSECUTION

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 07.08.2019,
ALONG WITH Bail Appl..4278/2019, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

(CR)

ALEXANDER THOMAS, J.

B.A.Nos.4278 & 4375 of 2019

Dated this the 7th day of August, 2019

ORDER

The sole applicant (Sreenish) in B.A.No.4278/2019 and the sole applicant (Ajmal) in B.A.No.4375/2019 are now re-arrayed as accused No.1 and accused No.3 respectively in the subject Crime No.843/2019 of Thripunithura Hill Palace Police Station. The said crime has been registered on the basis of the First Information Statement of the defacto complainant given on 27.4.2019 at about 11.43 p.m., in respect of the alleged incident, which has happened on 27.4.2019 at about 3.30 p.m and originally, the offences included in the said crime are those under Sections 392 and 34 of the IPC and originally a person shown in the name as “Tony” was arrayed as accused No.1 and two other identifiable persons whose names were not known to the defacto complainant have been arrayed as accused Nos. 2 and 3. The Police, after investigation, has now altered the offences in the said crime and now the offences alleged therein are those under Sections 394, 395, 120B of the IPC and there are six accused persons in the array of the accused in the said crime in which the re-arrayed accused status of the above said applicants are A1 and A3 respectively as stated hereinabove.

2. The brief of the case as per the First Information Statement (FIS) given by the defacto complainant, Sri. P.P. Aravindakshan, aged 67 years, is that he is engaged in the business of collection of antique currency notes, coins, philately and selling of those items. That on 27.4.2019, the defacto complainant came to Room No.27 of Arakkal Lodge, near to the Thripunithura Market junction to meet one of his friends Prabhakaran to give him cash for his daily needs, who is also doing the selling of antique coins and with whom the defacto complainant is associated in the sale of antique coins. Prior there to, one Sri. Jobi from Chambakkara had informed the defacto complainant that two or three persons have approached him, who have great interest in purchase of the above said antique items of the defacto complainant and it was told that the said Jobi could meet the defacto complainant in Arakkal Lodge, when the defacto complainant wants to meet his friend and accordingly, the defacto complainant was waiting the said Lodge to meet the said Jobi from Chambakkara to know the details of the two or three persons, who are said to have interest in purchase of these items as informed by the said Jobi. That around 3 p.m., three persons had come to that room and after some discussions they went out and come back after two minutes and one tall man out of three persons whose name was identified as "Tony" told the defacto complainant that the video earlier

taken by him was not clear and requested the defacto complainant to show the bag containing the said articles once again and he did so. That, while the defacto complainant tried to show the antique items contained in the said bag, all of a sudden the said tall man snatched away the bag and ran away outside and when he tried to obstruct it, two others pushed him back and he fell down there. The defacto complainant and his friend Prabhakaran followed them to get back the bag, but in vain. Further that the investigation has now revealed that the said Jobi, (who brought the said three persons to the defacto complainant) along with the above said Sreenish were waiting on the ground floor and another person was waiting in an autorickshaw parked in the nearby pathway.

3. Sri. Varghese. C. Kuriakose, learned counsel appearing for the accused Sreenish would urge that the above said allegations have been falsely foisted on his party and that in the F.I.S. given by the defacto complainant, there is no whisper of allegations about the involvement of the accused Sreenish and that he has been involved as accused in that crime presumably because of wrong identification or to deliberately foist a false case against him. Further that the custodial interrogation of the petitioner is not necessary and that his party will fully co-operate with the investigation in the present crime and that this Court may grant him relief of anticipatory bail.

4. Smt. I. Sheela Devi, learned Advocate appearing for the accused Ajmal, who is the applicant in B.A.No.4375/2019 would also urge that her party has been falsely or wrongly implicated in the said crime and that no materials have been collected by the investigation to even remotely connect him the allegations in the said crime. In that regard, learned counsel for the accused Sreenish (applicant in B.A. No.4278/2019) has also reiterated the very same contention that even now the investigation has not been able to secure any objective materials to implicate the petitioner as an accused in the instant crime etc.

5. Heard Sri. Varghese. C. Kuriakose, learned counsel appearing for the accused Sreenish, who is the applicant in B.A.No.4278/2019, Smt. I. Sheela Devi, learned counsel appearing for the accused Ajmal, who is the applicant in B.A.No.4375/2019 and Sri. Suman Chakravarthy, learned Public Prosecutor appearing for the respondent State of Kerala.

6. The respondent investigating officer in the above said crime has filed a detailed statement dated 2.7.2019 through the learned Public Prosecutor. On the basis of the averments in the said statement as well as on the basis of materials in the case diary file in relation to the present crime, Sri. Suman Chakravarthy, learned Public Prosecutor would point out that the accused persons concerned had pretended as

Broker-cum-agents and had thus approached the defacto complainant with evil intention, after criminal conspiracy and stealthily snatched away the bag containing valuable antique coins issued by British India, Travancore princely State, Mugal coins, World currencies, East India Company coins etc. to the tune of Rs.3 lakhs and thereby committed a blatant act of robbery on 27.4.2019 at 3.30 p.m at Arakkal Lodge at Thripunithura and that all the accused persons including both the applicants herein were absconding after committing the above said grave offences. That the investigation has now disclosed that the person, who had identified as Tony about whom mention is also made in the FIR and FIS, actually happens to be one Luther Ben and the other accused persons, who are Ajmal (applicant in B.A.No.4375/2019), Sunil along with Saif, the Autorickshaw driver, who was waiting outside, had escaped from there in the autorickshaw and the other two accused persons, Sri. Jobi and Sri. Sreenish (applicant in B.A.No.4278/2019), who were nearby the reception counter, had also ran away from there. That the crime was initially registered against only three persons, one of whose name was given as so informed by him to the defacto complainant. The three persons, who came inside the room of the defacto complainant at the time of the actual incident which led to the snatching away the bag etc and since the other two persons were not in any manner known to the defacto

complainant and that their names are also not revealed, the Police had no other alternative but to state that accused Nos.2 and 3 are two identifiable persons, whose names are not known to the defacto complainant. That the investigation has clearly revealed that the defacto complainant is aged 67 year old senior citizen, who was doing business in antiques, in a rented shop at Udayamperoor and later, the shop was closed and now he is doing the same business and delivering the things to customers, according to their demands, later the Police had recorded a further Section 164 statement of the defacto complainant on 29.4.2019, wherein he has stated that, on 27.4.2019 while he went for the sale of coins, the said Jobi called on his mobile number and informed that one Sreenish from Fort Kochi desires to buy the coins and asked him to reach to Ernakulam with coins. As such the defacto complainant went to Ernakulam and waited near his friend's Tailoring shop, near Ernakulam South, by 10.00 a.m and when Jobi and Sreenish came there and they have taken the videos of the coins and they left after agreeing the value he demanded. At that occasion, one Rajesh doing the same business and one Sujith had present there, while settling the sale. Later, the defacto complainant came to the Arakkal Lodge to meet his friend Prabhakaran and waited there as Jobi had informed him that three other persons were really interested to purchase the said antique collections from the defacto

complainant will be coming there to meet him. That after the defacto complainant had reached the Arakkal Lodge, Sri. Jobi had called him once again and told that Jobi and Sreenish are coming to Thripunithura to see him and he asked him to wait there. The accused Sreenish and the accused Jobi reached there and once again the defacto complainant had shown them the coins and they said that they are satisfied and informed that one Tony and his friends are coming to the lodge to buy the coins and definitely they will pay the cash as decided and they went outside. Afterwards one person came to the room and introduced himself as Tony along with two others and asked him to show the coins. That the defacto complainant has described the incident in the F.I.S. only from this stage onwards and the incidents which happened prior thereto were not narrated by him, as he was under the bonafide belief that the actual culprits, who indulged in the crime of robbery are only the three persons inclusive of the person who gave his name as Tony, who had snatched away the bag. At that time, when these three persons including Tony had come to his room, the defacto complainant asked him to wait for Jobi and then they replied that they came there as instructed by Jobi and Sreenish and asked him to show the coins. Then he had shown the coins to them and they went out saying that they will be back after taking cash from an ATM and pretended as they are going out, but later, they came back

immediately and wanted the defacto complainant to show the bag as the video pictures seen by them were not very clear and that the defacto complainant then believing the bonafides of the said three persons had shown the bag at that point of time, they hurriedly snatched away the bag and the incidents as narrated in the F.I.S have happened. That the investigation has revealed that another person was waiting outside the room and after snatching of the bag, all of them had ran away through nearby pathway.

7. As regards the various steps taken by the investigation agency, it is stated by the learned Public Prosecutor that the police party has taken earnest efforts to trace out the accused persons by checking the CCTV footage from the premises of Arakkal Lodge and had sent crime card to the nearby police station requesting information of the accused persons having the same Modus Operandi. Further that the CCTV footage and the available clippings taken from the Arakkal Lodge were shown to the defacto complainant during the investigation to identify the culprits and the said CCTV footage had shown that Sreenish along with Jobi, Luther, Ajmal and Sunil were running through the pathway after committing the above said crime and all of them have ran away outside and gone out in the autorickshaw to the eastern side. Further that during the course of investigation, accused Jobi was arrested from Thripunithura from

28.4.2019 and produced before the Judicial First Class Magistrate Court, Thripunithura and the learned Magistrate remanded him to the District Jail, Kakkanad and later released him on bail on 3.5.2019 by the orders of the said learned Magistrate. The re-arrayed accused status of all the six accused persons are also mentioned in paragraph 11 of the above said statement, which reads as follows:

“A1: Sreenish-earlier A5 27/19, S/o.Suresh, Murikkumptharaparambu House, No:8/657, Koovappadam, Kochi- (the petitioner in BA No.4278/2019).

“A2: Looter Ben, earlier A1 (introduced himself as Tony), S/o. Varghese, ThykkalHouse, XIV/930, Podiyali, Kochi.

A3: Ajmal, earlier A2, 29/19, S/o. Ubaid, Kandathil House, VII/147, Chamkkadam, Kochi (petitioner in BA 4375/2019)

A4: Sunil P S @ Ponnu, earlier A-3, aged 25, S/o. Surendran, Dayanandan Road, Pandikkudy, Fort Kochi (arrested on 01.07.2019)

A5:Saifudeen Haneef (Auto Driver), earlier A-4.

A6:Joby, earlier A-6, s/o. Antony, Paanekkattu House, Thykkoodam,Poonithura (arrested on 28.04.2019).”

It is thus seen that the accused Sreenish (applicant in B.A. 4278/2019) was earlier given accused status as accused No.5 and now he is re-arrayed as accused No.1. Accused Ajmal (applicant in B.A.No.4375/2019) was earlier arrayed as accused No.2 and has now been re-arrayed as accused No.3. Further it is pointed out by the learned Public Prosecutor that one of the accused persons, Sunil (A4) was arrested on 1.7.2019. That Luther Ben (A2) is involved in two other cases registered in Ernakulam Town South Police Station, the

details of which are given in paragraph 13 the said statement reads as follows:

- “1) Cr 170/19 U/s 365, 387, 392, 323, 342, 506(1), 427 of 34 IPC
 - 2) Cr. 172/19 U/s 304 IPC
- Apart from this he is also an accused in the following crimes registered at Mattancherry PS.
- 3) Cr 1071/11 U/s 308, 326 & 34 IPC
 - 4) Cr 734/11, U/s 420 & 34 IPC
 - 5) Cr 457/12, U/s 452, 323, 325 & 34 IPC”

8. It is further pointed out by the learned Public Prosecutor that A4 Sunil @ Ponnu is also involved in a case in crime No.395/2019 of Mattancherry Police Station. Further the learned Public Prosecutor would point out that in order to establish the criminal conspiracy and the criminal intention of the accused persons, the autorickshaw bearing Registration No.KL-17/G-6462, which was used for escaping away from the place of occurrence by the accused persons was traced out, which was kept abandoned in an isolated place of Mattancherry and the vehicle was seized and produced before the JFCM Court concerned. The learned Public Prosecutor would submit on the basis of the investigating materials disclosed in the CD file that the investigation conducted so far would reveal that Sreenish (A1) is the kingpin of the entire transactions including the conspiracy and he planned to snatch away the articles of the defacto complainant and that the conspiracy was started in the house of A4. The CCTV visuals would confirm his involvement as well as the Call Data Records (CDR) between the other

accused would also clearly point to that. The tower locations also confirmed the presence of A1 apart from the identification of the defacto complainant and his friend Prabhakaran. Hence it is urged by the learned Public Prosecutor that the custodial interrogation of A1 is highly essential for proceeding effectively further investigation in this crime. It is also pointed out by Sri. Suman Chakravarthy, learned Public Prosecutor that Ajmal (A3) had entered the lodge room and had constrained to snatch away and take away the antique articles of the defacto complainant and he took part in the conspiracy at the house of A4 and he brought A2 (Luther Ben) on his bike. The CDR and the tower location of Ajmal also confirm his involvement and his presence is also clearly seen and identified in CCTV visuals and he is also identified by the defacto complainant and his friend Prabhakaran and that custodial interrogation of A3(Ajmal) is also highly inevitable for the effective conduct of the investigation further. However, the learned Public Prosecutor would also submit that the investigation is also at the preliminary stage and if these two accused persons are released on anticipatory bail at this stage, it will adversely affect the investigation and there is every possibility of influencing the witnesses by threatening and intimidating them and even tampering of evidence and that the above said conduct of the accused persons and the investigation materials so far collected would unerringly point to in

that direction.

9. After hearing both sides and after anxiously considering the above said aspects pointed out by both sides, this Court is constrained to take the view that the offences disclosed against the petitioners are very serious and grave. Going by the investigation details given by the learned Public Prosecutor, which is also furnished in the form written statement, copies of which are also made available to the applicants, it is seen that the line of direction in which the investigation has been proceeded cannot be branded as faulty or wrong and prima facie, this Court is convinced that the investigation is indeed proceeding in the right and proper direction. This Court is constrained to take a such a view only for the limited purpose of considering the issues in the anticipatory bail application as both the applicants vehemently urge that there are no materials available in the investigation to even remotely connect the petitioners with the offences in the instant crime. Further, in the light of the above said factual aspects disclosed in the investigation so far, the stand taken by the investigating officer that the custodial interrogation of both the above said applications is highly necessary and imperative for the smooth and further conduct of the investigation in this case cannot be found fault with by this Court. In a case like this, if this Court exercises discretion to grant pre-arrest bail, then it would certainly amount to interdicting

with the flexibility of the discretion conferred on the investigating officer to effectively conduct the investigation in this crime. Hence, this Court has no other alternative but to reject the plea of the petitioners in the matter of grant of pre-arrest bail in this crime.

10. Sri. Varghese. C. Kuriakose, learned counsel appearing for the accused Sreenish and Smt. I. Sheela Devi, learned counsel appearing for the accused Ajmal would then submit before this Court that the said accused persons would immediately voluntarily surrender before the investigating officer concerned. So that their applications would be considered by the jurisdictional Magistrate Court concerned on the same day of their production after the completion of interrogation and they seek two weeks' time in that regard for surrender before the investigating officer.

11. The learned Public Prosecutor has opposed the said plea and has pointed out that time by two weeks may not be granted and that in case this Court is so inclined to give any such option to the accused person, then it may grant only a short time. Accordingly, only on the basis of the voluntary submission made by the accused persons, it is ordered that the two applicants herein will voluntarily surrender and personally appear before the investigating officer in relation to this crime for interrogation purposes without any further delay at any rate, by 10 a.m. on any day on or before 17.8.2019. The applicants will fully

co-operate with the investigating officer in the interrogation process. After the interrogation process is over, the investigating officer may produce the applicants before the jurisdictional Magistrate Court concerned and thereupon the learned Magistrate will consider and pass orders on the bail applications of these two applicants on the same day of their production and after hearing their respective Advocates as well as the learned Public Prosecutor and after taking due note of the facts and circumstances of the case. However, it is made clear that the above said directions now have been issued only on account of the submissions made by the accused persons, it is made clear that the matters in relation to the consideration of such bail applications will be fully within the province of the learned Magistrate, who will consider those matters independently and after taking due note of the facts and circumstances of the case.

12. Before parting with this case, it is to be observed that in cases like this, many a time the parties are not aware about the exact accused status assigned to them. The investigation had earlier arrayed accused status to Sreenish and Ajmal, respectively as A5 and A2 respectively and later their accused status has re-arrayed as A1 and A3 respectively. The learned Advocates appearing for the above said applicants were not even having a copy of the FIR and FIS in the instant crime. Occasions of this nature occur quite frequently even

though directions have been issued by the Apex Court and various High Courts including this Court that it is the bounden duty of the police authorities concerned to furnish authentic copy of the FIR to the accused persons as it is the bounden obligation of the police authorities concerned to notify the accused persons as to the nature of the allegations raised against them at the time of registration of the crime. In this regard, the Division Bench of this Court in the case in ***Jiju Lukose v. State of Kerala*** [2016(1) KLT 119], has categorically held in paragraph 9 thereof that for meaningful exercise of the right given to the accused under Section 438 of Cr.P.C., obtaining copy of the F.I.R is utmost relevant and necessary and a person who is accused of a cognizable offence by the registration of the F.I.R at the police station cannot be denied the right to know the contents of the F.I.R to enable him to defend himself and take such steps as provided under law. So also, it is relevant to note that the Apex court in the case in ***Youth Bar Association of India v. Union of India and another*** [2016(9) SCC 473], p.476 at paragraph 11 thereof held that an accused is entitled to get a copy of the first information report at an earlier stage than as prescribed under Section 27 Cr.P.C. and that an accused has reasons to suspect that he has been roped in a criminal case and his name may be finding in an FIR can submit an application through his representative/agent for grant of a certified copy before the police

officer concerned or to the Superintendent of Police on payment of such fee which is payable for obtaining such a copy from the court and that on such application being made, the copy shall be supplied within twenty four hours. The following directions have been issued by the Apex Court in paragraph 11 of **Youth Bar Association of India's case (supra)** [2016(9) SCC 473], p.p.476-477, which reads as follows:

11. Having heard the learned counsel for the parties, we think it appropriate to record the requisite conclusions and, thereafter, proceed to issue the directions:

11.1. An accused is entitled to get a copy of the first information report at an earlier stage than as prescribed under Section 207 Cr.P.C.

11.2. An accused who has reasons to suspect that he has been roped in a criminal case and his name may be finding place in a first information report can submit an application through his representative/agent/parokar for grant of a certified copy before the police officer concerned or to the Superintendent of Police on payment of such fee which is payable for obtaining such a copy from the court. On such application being made, the copy shall be supplied within twenty-four hours.

11.3. Once the first information report is forwarded by the police station to the Magistrate concerned or any Special Judge, on an application being filed for certified copy on behalf of the accused, the same shall be given by the court concerned within two working days. The aforesaid direction has nothing to do with the statutory mandate inhereed under Section 207 CrPC.

11.4. The copies of the FIRs, unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism and of that category, offences under the POCSO Act and such other offences, should be uploaded on the police website, and if there is no such website, on the official website of the State Government, within twenty-four hours of the registration of the first information report so that the accused or any person connected with the same can download the FIR and file appropriate application before the court as per law for redressal of his grievances. It may be clarified here that in case there is connectivity problems due to geographical location or there is some other unavoidable difficulty, the time can be extended up to forty-eight hours. The said 48 hours can be extended maximum up to 72 hours and it is only relatable to connectivity problems due to geographical location.

11.5. *The decision not to upload the copy of the FIR on the website shall not be taken by an officer below the rank of Deputy Superintendent of Police or any person holding equivalent post. In case, the States where the District Magistrate has a role, he may also assume the said authority. A decision taken by the police officer concerned or the District Magistrate shall be duly communicated to the jurisdictional Magistrate concerned.*

11.6. *The word “sensitive” apart from the other aspects which may be thought of being sensitive by the competent authority as stated hereinbefore would also include concept of privacy, regard being had to the nature of the FIR. The examples given with regard to the sensitive cases are absolutely illustrative and are not exhaustive.*

11.7. *If an FIR is not uploaded, needless to say, it shall not enure per se a ground to obtain the benefit under Section 438 CrPC.*

11.8. *In case a copy of the FIR is not provided on the ground of sensitive nature of the case, a person grieved by the said action, after disclosing his identity, can submit a representation to the Superintendent of Police or any person holding the equivalent post in the State. The Superintendent of Police shall constitute a committee of three officers which shall deal with the said grievance. As far as the metropolitan cities are concerned, where Commissioner is there, if a representation is submitted to the Commissioner of Police, he shall constitute a committee of three officers. The committee so constituted shall deal with the grievance within three days from the date of receipt of the representation and communicate it to the grieved person.*

11.9. *The competent authority referred to hereinabove shall constitute the committee, as directed hereinabove, within eight weeks from today.*

11.10. *In cases wherein decisions have been taken not to give copies of the FIR, regard being had to the sensitive nature of the case, it will be open to the accused/his authorised representative/parokar to file an application for grant of certified copy before the Court to which the FIR has been sent and the same shall be provided in quite promptitude by the court concerned not beyond three days of the submission of the application.*

11.11. *The directions for uploading of FIR in the website of all the States shall be given effect from 15.11.2016.*

It has been brought to the notice of this Court that though initially the State Police had complied with the above said directions of the Apex Court by uploading the FIR in the website etc., later, many a time the contents of such F.I.R. could not be seen in the website. Sri. Suman

Chakaravarthy, learned Public Prosecutor appearing for the respondent State of Kerala would submit that the above said directions have been strictly followed by the State Police and that such publication is made in the official website of the Kerala Police (www.keralapolice.gov.in) etc.

13. This Court has repeatedly issued various interim orders as well as final orders in anticipatory bail applications as well as regular bail applications that the police authorities concerned are duty bound to furnish copies of the FIR, FIS to the accused persons in anticipatory bail applications and to provide copies of the FIR, FIS as well as the remand report in regular bail applications. The said directions have not been effectively complied with. Now and recently due to the great efforts of persuasion made by this Court, the Director General of Prosecution and the Senior Prosecutors have taken steps to ensure that the said directions are being complied with. Even then, at least in quite a few cases, the said papers are not placed on record within the time, which result that such matters being adjourned unnecessarily. Apart from that it is seen in many cases that the First Information Statement as well as the various Section 161 Cr.P.C.statements produced along with the final report, which are all handwritten documents are not easily readable or legible both to the Court as well as to the learned Advocate concerned, which also leads to unnecessary

wastage of time in trying to understand real contents of the FIS etc. This Court had requested the Director General of Prosecution to look into this aspects and had also directed in some of the interim orders and final orders in the bail matters that legible typewritten copy of the FIS should also be made available for the perusal of this Court. Accordingly, it is ordered that the prosecution agency is bound to ensure that the copies of the FIR, FIS and the legible typewritten copy of the FIS are produced before this Court along with memo of the learned Public Prosecutor in anticipatory bail applications. Further copies of the FIR, FIS, legible typewritten copy of the FIS and the remand report are also produced along with memos of the prosecutor concerned in regular bail applications. In cases where a person, who is not initially arrayed as an accused in the FIR, is subsequently got arrayed as an accused in the crime on account of an additional Section 164 Cr.P.C. statement given by the person concerned, then the Public Prosecutor will also ensure that a copy as well as the legible typewritten version of such statement is also made available at least for the perusal of this Court in anticipatory bail applications and regular bail applications, so that it will be quite easy for the Court to understand as to on what basis such a person has been newly arrayed as an accused in the crime, even though it was not initially named as an accused in the F.I.R . It further appears that in almost all cases, the original of the FIS

is a handwritten document recorded in the handwriting of the authorized police official concerned. But it also happens that many at time the handwriting in the FIS are not very legible and it becomes very tough task for the Court, the Prosecutor and for the Advocate of the accused persons to really decipher some of the vital contents of the FIS and lack of proper understanding affects not only the case of the accused persons but may also even detrimentally affect the prosecution in such cases. Therefore, it is ordered that the State Police Chief should issue directions to ensure that legible typewritten copy of the FIS is also immediately maintained after the recording of the FIS in the Police Station concerned and such legible typewritten copies of the FIS as attested by the SHO or the competent official of the Police Station concerned should be kept in the CD file, so that the same could be easily made available to the Subordinate Criminal Courts as well as to this Court during consideration of not only bail applications but also in other proceedings including trial. It is seen that many of the Police Stations, maintenance of Case Diary are effected in typewritten version probably using laptop/desktop and so it may not cause any real difficulties to any of the Police Stations in Kerala to immediately maintain a typewritten version of the FIS. Accordingly, it is ordered that the State Police Chief should immediately issue a Circular directing all the Police Stations concerned including the Crime Branch

department on the following aspects:

i) Immediately after recording of the FIS in the handwriting of the police official concerned, it shall be ensured that a typewritten copy of the FIS is also maintained and sufficient copies of the same shall be kept in the CD file, so that it could be easily given to the courts concerned, to the prosecutor concerned and it could also be produced as and when required in the courts.

ii) Copies of FIR ,FIS, legible typewritten copy of FIS should be produced along with memos of the Prosecutor in all anticipatory bail applications file before this Court.

iii) Copies of FIR, FIS, legible typewritten copy of the FIS and copy of the remand report should be filed along with memo of the prosecutor concerned in all regular bail applications filed before this Court.

14. Needless to say, the original of the F.I.S could continue to be in handwritten form. Necessary steps in that regard should be taken by the State Police Chief without any further delay. The State Police Chief will ensure that a report is filed before this Court in this matter through the learned Public Prosecutor after complying with the above said directions. Such report also should contain about the details of the steps taken by the State Policed in effectively complying with the above said directions of the Apex Court in ***Youth Bar Association of***

India's case (supra) [2016(9) SCC 473], in the matter of uploading of FIR as directed in the said judgment. The learned Prosecutor will ensure that a copy of this order is furnished to the State Police Chief for necessary information and further action.

With these observations and directions, the above anticipatory bail application will stand dismissed.

**sd/-
ALEXANDER THOMAS, JUDGE**

acd