

# VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

FRIDAY, THE 20<sup>TH</sup> DAY OF JANUARY 2023 / 30TH POUSHA, 1944

BAIL APPL. NO. 5010 OF 2021

(CRIME NO.RC7(S)2021/SC II/NEW DELHI OF CB/SC II/NEW DELHI)

PETITIONER/ACCUSED NO.11:

P.S.JAYAPRAKASH, AGED 71 YEARS  
S/O.N.SUDHAKARAN,  
DEPUTY CENTRAL INTELLIGENCE OFFICER (RETD.),  
AJAYASREE, 48/489D, PRA 115,  
POOVAMPILLY LANE,  
DESHABHIMANI ROAD,  
ELAMAKKARA P.O., KOCHI - 682 026.

BY ADVS.Sri.KALEESWARAM RAJ  
VARUN C.VIJAY

RESPONDENTS:

1 CENTRAL BUREAU OF INVESTIGATION  
REPRESENTED BY THE CBI PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM,  
KOCHI - 31.

ADDL.2 S.NAMBI NARAYANAN, AGED 81 YEARS  
S/O SANKARALINGAM, SANGEETHA,  
T.C NO. 36/978, NSS LANE,  
PERUMTHANNI, TRIVANDRUM.

(IS IMPLEADED AS ADDL.R2 AS PER ORDER DATED  
01.07.2021 IN CRL. MA NO.1/2021 IN BA NO.  
5010/2021)

B.A.Nos.5010 of 2021 &  
Connected cases

2

R1 BY ADV.SHRI.S.V.RAJU, ADDL. SOLICITOR  
GENERAL OF INDIA  
SRI.MANU S., DSG OF INDIA  
SRI.SUVIN R MENON, CENTRAL GOVERNMENT COUNSEL  
ADV.SRI.ANSHUMAN SINGH,  
ADV.SRI.ANKITBHATIA,  
ADV.SRI.HARSH PAUL SINGH,  
ADV.SRI.HITARTH RAJA

R2 BY ADV.SRI.C.UNNIKRISHNAN (KOLLAM)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON  
20.01.2023, ALONG WITH B.A.NOS.5109/2021, 5809/2021,  
6502/2021 & CRL.M.C.NO.4424/2021, THE COURT ON THE SAME DAY  
PASSED THE FOLLOWING:

B.A.Nos.5010 of 2021 &  
Connected cases

3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

FRIDAY, THE 20<sup>TH</sup> DAY OF JANUARY 2023 / 30<sup>TH</sup> Pousha, 1944

BAIL APPL. NO. 5109 OF 2021

(CRIME NO.RC7(S)/2021-SC-II/CBI/NEW DELHI)

PETITIONERS/ACCUSED NOS.1 & 2:

- 1 VIJAYAN, AGED 65 YEARS  
SON OF N.R. PADMANABHAN, TC6/1983(4),  
SWANTHANAN, KOTHU ROAD,  
ELIPPODE, VATTIYOORKAVU,  
THIRUVANANTHAPURAM, PIN - 695013.
  
- 2 THAMPI S DURGA DUTT, AGED 60 YEARS  
SON OF SANKARAN NAIR, TC10/196-5,  
NANTHIYAR HOUSE, 48C, SWATHI NAGAR LANE -2,  
PIPEEN MOODU,  
THIRUVANANTHAPURAM, PIN - 695005.

BY ADVS.SRI.SASTHAMANGALAM S.AJITHKUMAR  
ADV.SRI.JINSON OUSEPH

RESPONDENTS:

- 1 CENTRAL BUREAU OF INVESTIGATION SCII  
NEW DELHI, REPRESENTED BY ITS STANDING  
COUNSEL HIGH COURT OF KERALA,  
ERNAKULAM, PIN - 682031.

B.A.Nos.5010 of 2021 &  
Connected cases

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ADDL.2 S.NAMBI NARAYANAN, AGED 81 YEARS  
S/O SANKARALINGAM, SANGEETHA,  
T.C NO. 36/978, NSS LANE,  
PERUMTHANNI, TRIVANDRUM.

(IS IMPEADED AS ADDL.R2 AS PER ORDER DATED  
26/7/2021 IN CRL. M.A NO.1/2021 IN BA NO.5109/2021)

ADDL.3 FAUZIYYA HASSAN OF H.USSAKURUGE, HHEKUNU,  
MALE, MALDIVES (IDNO.A071700, MALE,  
REPUBLIC OF MALDIVES.  
(IMPEADED AS PER ORDER DATED 13.1.2023 IN  
CRL.M.A.NO.10 OF 2021 IN B.A.NO.5109/2021)

ADDL.4 MARIYAM RASHEEDA (ID NO.A076496), DHAFTHARA, NO.RS  
3187, MALE, REPUBLIC OF MALDIVES.  
(IMPEADED AS PER ORDER DATED 13.1.2023 IN  
UNNUMBERED CRL.M.A.11 OF 2021 IN B.A.NO.5109/2021)

R1 BY ADV.SHRI.S.V.RAJU, ADDL. SOLICITOR  
GENERAL OF INDIA  
SRI.MANU S., DSG OF INDIA  
SRI.SUVIN R MENON, CENTRAL GOVERNMENT COUNSEL  
ADV.SRI.ANSHUMAN SINGH,  
ADV.SRI.ANKITBHATIA,  
ADV.SRI.HARSH PAUL SINGH,  
ADV.SRI.HITARTH RAJA

R2 BY ADV.SRI.C.UNNIKRISHNAN (KOLLAM)  
R3 & R4 BY ADV.SRI.PRASAD GANDHI  
ADV.SRI.M.R.JAYAPRASAD

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON  
20.01.2023, ALONG WITH B.A.NOS.5010/2021, 5809/2021,  
6502/2021 & CRL.M.C.NO.4424/2021, THE COURT ON THE SAME DAY  
PASSED THE FOLLOWING:

B.A.Nos.5010 of 2021 &  
Connected cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

FRIDAY, THE 20<sup>TH</sup> DAY OF JANUARY 2023 / 30<sup>TH</sup> POUSHA, 1944

BAIL APPL. NO. 5809 OF 2021

(CRIME NO.RC7(S)2021/SC II/NEW DELHI OF CB/SC II/NEW DELHI)

PETITIONER/ACCUSED NO.7:

R.B.SREEKUMAR (IPS RETD.),  
AGED 74 YEARS, FORMER DGP,GUJARAT,  
PLOT NO.193,  
"SREELEKSHMIDEEPAM", SECTOR-8,  
GANDHINAGAR-382008.

BY ADVS.SRI.S.SREEKUMAR (SR.)  
P.MARTIN JOSE  
P.PRIJITH  
THOMAS P.KURUVILLA  
R.GITESH  
AJAY BEN JOSE  
MANJUNATH MENON  
SACHIN JACOB AMBAT  
HARIKRISHNAN S.

RESPONDENT:

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS  
DIRECTOR, 6TH FLOOR, LODHI ROAD, PLOT NO.5-B,  
JAWAHARLAL NEHRU STADIUM MARG, CGO COMPLEX, NEW  
DELHI 11.

B.A.Nos.5010 of 2021 &  
Connected cases

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BY ADVS.SHRI.S.V.RAJU, ADDL. SOLICITOR  
GENERAL OF INDIA  
SRI.MANU S., DSG OF INDIA  
SRI.SUVIN R MENON, CENTRAL GOVERNMENT COUNSEL  
ADV.SRI.ANSHUMAN SINGH,  
ADV.SRI.ANKITBHATIA,  
ADV.SRI.HARSH PAUL SINGH,  
ADV.SRI.HITARTH RAJA

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON  
20.01.2023, ALONG WITH B.A.NOS.5010/2021, 5109/2021,  
6502/2021 & CRL.M.C.NO.4424/2021, THE COURT ON THE SAME DAY  
PASSED THE FOLLOWING:

B.A.Nos.5010 of 2021 &  
Connected cases

7

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

FRIDAY, THE 20<sup>TH</sup> DAY OF JANUARY 2023 / 30TH POUSHA, 1944

BAIL APPL. NO. 6502 OF 2021

(CRIME NO.RC7(S)2021/SC II/NEW DELHI OF CB/SC II/NEW DELHI)

PETITIONER/ACCUSED NO.17:

VINOD KUMAR MAINI, S/O.MULKH RAJ MAINI, R/O.51,  
NIRMAN VIHAR, PHASE I EXTENSION, NEW DELHI-110091.

(CORRECTED AND SUBSTITUTED AS "R/O 51, NIRMAN  
APARTMENT, MAYUR VIHAR, PHASE- 1 EXTENSION, NEW  
DELHI-110091" AS PER ORDER DATED 6/10/2021 IN  
CRL.M.A.NO.1/2021.

BY ADVS.SRI.PANKAJ MEHTA  
SRI.RAMSHAD K.C.

RESPONDENTS:

- 1 THE CENTRAL BUREAU OF INVESTIGATION  
REPRESENTED BY ASSISTANT SOLICITOR GENERAL  
HIGH COURT OF KERALA, ERNAKULAM REPRESENTING  
THE CENTRAL BUREAU OF INVESTIGATION.
- 2 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA,  
ERNAKULAM REPRESENTING THE STATE OF KERELA.

B.A.Nos.5010 of 2021 &  
Connected cases

8

BY ADVS.SHRI.S.V.RAJU, ADDL. SOLICITOR GENERAL OF  
INDIA SRI.MANU S., DSG OF INDIA  
SRI.SUVIN R MENON, CENTRAL GOVERNMENT COUNSEL  
ADV.SRI.ANSHUMAN SINGH,  
ADV.SRI.ANKITBHATIA,  
ADV.SRI.HARSH PAUL SINGH,  
ADV.SRI.HITARTH RAJA

R2 BY SR.PUBLIC PROSECUTOR SMT.REKHA.S.

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON  
20.01.2023, ALONG WITH B.A.NOS.5010/2021, 5109/2021,  
5809/2021 & CRL.M.C.NO.4424/2021, THE COURT ON THE SAME DAY  
PASSED THE FOLLOWING:



B.A.Nos.5010 of 2021 &  
Connected cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

FRIDAY, THE 20<sup>TH</sup> DAY OF JANUARY 2023 / 30<sup>TH</sup> POU SHA, 1944

CRL.MC NO. 4424 OF 2021

AGAINST THE ORDER IN CRL.M.C.1226/2021 OF DISTRICT COURT &

SESSIONS COURT, THIRUVANANTHAPURAM DATED 24.8.2021

(CRIME NO.RC7(S)2021/SC II/NEW DELHI OF CB/SC II/NEW DELHI)

PETITIONER/PETITIONER/ACCUSED NO.4:

DR. SIBY MATHEWS

AGED 69 YEARS

S/O.JOSEPH MATHEWS, RESIDING AT 95/275, SILVER  
HILLS, ANAYARA P.O., THIRUVANANTHAPURAM 695 059.

BY ADVS.SRI.V.AJAKUMAR(A-657)

SIDHARTH A.MENON

MUHAMMED ALJUQ A.(K/251/2021)

RESPONDENT:

CENTRAL BUREAU OF INVESTIGATION

REP.BY ITS STANDING COUNSEL,

HIGH COURT OF KERALA, ERNAKULAM 682 031.

BY ADVS.SHRI.S.V.RAJU, ADDL. SOLICITOR GENERAL OF

INDIA SRI.MANU S., DSG OF INDIA

SRI.SUVIN R MENON, CENTRAL GOVERNMENT COUNSEL

ADV.SRI.ANSHUMAN SINGH,

ADV.SRI.ANKITBHATIA,

ADV.SRI.HARSH PAUL SINGH,

ADV.SRI.HITARTH RAJA

B.A.Nos.5010 of 2021 &  
Connected cases

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THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON  
20.01.2023, ALONG WITH B.A.NOS.5010/2021, 5109/2021,  
5809/2021 & B.A.NO.6502/2021, THE COURT ON THE SAME DAY  
PASSED THE FOLLOWING:

**“C.R.”**

**COMMON ORDER**

The petitioners are accused in Crime No.RC7(S)/2021-SC-II/CBI/New Delhi. The petitioners in B.A.No.5109 of 2021 are accused Nos.1 and 2 in the crime. Accused No.4 is the petitioner in CrI.M.C.No.4424 of 2021. The petitioner in B.A.No.5809 of 2021 is accused No.7. Accused No.11 in the crime is the petitioner in B.A.No.5010 of 2021. The petitioner in B.A.No.6502 of 2021 is accused No.17.

2. The petitioners are alleged to have committed offences punishable under Sections 120-B read with Sections 167, 195, 218, 323, 330, 348, 365, 477-A, and 506 of the Indian Penal Code.

**Background**

3. Sri.S.Nambi Narayanan, a renowned scientist of the Indian Space Research Organization (ISRO), was arrested in a prosecution initiated by the State Police, which was found to be false and baseless. The prosecution resulted in harassment and immeasurable torture of Sri.Nambi Narayanan. The criminal law was set in motion without any foundation by which the liberty and dignity of

Sri.Nambi Narayanan and some others, including Ms.Mariyam Rasheeda and Ms.Fauzia Hassan, were put in danger. The State Police failed to take the required care and caution while dealing with an extremely sensitive case.

3.1. The facts leading to the initiation of prosecution, as referred to above, are as follows:-

3.2. On 20.10.1994, Vanchiyoor Police registered Crime No.225 of 1994 against one Ms.Mariyam Rasheeda, a Maldivian National, under Section 14 of the Foreigners Act, 1946 and Para 7 of the Foreigners Order, 1948. The said crime was registered based on a report by Sri.S.Vijayan (accused No.1), the then Inspector, Special Branch, Kerala Police, Thiruvananthapuram. The crime was initially investigated by Sri.Thampi S.Durgadutt (accused No.2), who was the then SHO of Vanchiyoor Police Station. Ms.Mariyam Rasheeda was arrested and sent to judicial custody on 21.10.1994. Her custody was obtained by the Police on 3.11.1994. She was interrogated by the Kerala Police and the Intelligence Bureau Officials. The officials who interrogated Ms.Mariyam Rasheeda allegedly obtained certain "confessions" which led to the registration of Crime No.246 of 1994 of Vanchiyoor Police Station on 13.11.1994 under Sections 3 and 4 of the Official Secrets Act, 1923, based on the allegation that certain official secrets or

documents of ISRO had been leaked out by the scientists of ISRO.

3.3. In Crime No.246 of 1994, Ms.Mariyam Rasheeda and Ms.Fauzia Hassan, another Maldivian National, were arrested. On 15.11.1994, the State Police Chief constituted a Special Investigation Team (SIT) headed by Sri.Siby Mathews (accused No.4), who was the then DIG, Crime Branch of Kerala Police. On 21.11.1994, Sri.D.Sasikumaran, a scientist of ISRO, was arrested. Sri.S.Nambi Narayanan was also arrested on 30.11.1994.

3.4. On 3.12.1994, consequent to the request of the Government of Kerala and the decision of the Government of India, the investigation was transferred to the CBI. After investigation, the CBI submitted a report before the Chief Judicial Magistrate, Ernakulam, under Section 173(2) of the Code of Criminal Procedure in Crime No.246 of 1994, stating that the evidence collected indicated that the allegations of espionage against the scientists of ISRO, including Sri.Nambi Narayanan, were not proved and found to be false. The Chief Judicial Magistrate, in its order dated 2.5.1996, accepted the report submitted by the CBI. In Crime No.225 of 1994, the CBI submitted final report before the Chief Judicial Magistrate alleging offence under Section 14 of the Foreigners Act, 1946. In Crime No.225/1994, Ms.Mariyam Rasheeda was acquitted after trial.

3.5. In the report of closure on the allegation of espionage, the CBI requested the Government of India and the Government of Kerala to take departmental action against the erring officials. The jurisdictional Magistrate accepted the report submitted by the CBI on 2.5.1996.

3.6. The Government of Kerala decided not to take any disciplinary action against the State Government Officials for the alleged lapses. The Government ordered the re-opening of the investigation by the State Investigating Agency. The decision of the Government of Kerala was challenged by Sri.Nambi Narayanan. The matter reached the Apex Court, which quashed the decision of the Government. The Apex Court awarded a compensation of Rupees Fifty Lakhs to Sri.Nambi Narayanan and constituted a committee headed by Justice Shri.D.K.Jain to find out the ways and means to take appropriate steps against the erring officials.

3.7. On 25.3.2021, Justice D.K.Jain Committee submitted report recommending an impartial and in-depth investigation by a central investigation agency to unearth the motive behind the entire conspiracy/nexus to falsely implicate Sri.S.Nambi Narayanan and other scientists. The committee observed that prima facie 18 persons, who

were then serving the Kerala Police and Intelligence Bureau, were involved.

3.8. Based on the report of Justice D.K.Jain Committee, the Supreme Court ordered investigation, which resulted in the registration of Crime No.RC:07(S)/2021-SC-II/CBI/New Delhi on 1.5.2021.

3.9. Accused Nos.1, 2, 7, and 11 filed applications seeking anticipatory bail before this Court. As per order dated 13.8.2021 this Court granted anticipatory bail to accused Nos.1, 2, 7, and 11. Accused No.4 filed application for anticipatory bail before the Sessions Court which granted bail for a period of 60 days from the date of order. Accused No.4 challenged the order limiting the period of anticipatory bail in CrI.M.C.No.4424 of 2021. This Court, as per the order dated 16.11.2021, lifted the time stipulation of 60 days. The CBI challenged the order granting anticipatory bail to the accused before the Supreme Court. As per the judgment dated 2.12.2022, the Apex Court set aside the order granting anticipatory bail to the accused and remanded the matter to this Court to decide the same afresh.

3.10. In the judgment dated 2.12.2022, the Apex Court observed thus:-

“5. Be that as it may, as observed hereinabove, while granting anticipatory bail to the respondents – accused, the High Court has neither considered the allegations

against the respective accused nor the role played by them nor the position held by them at the time of registering the FIR in the year 1994 nor the role played by them during the investigation of Crime Nos.225/1994 & 246/1994. The High Court has also not taken note of the recommendations made by the Committee headed by Hon'ble Mr.Justice D.K.Jain, a former Judge of this Court.

6. In view of the above, the impugned judgment(s) and order(s) passed by the High Court granting anticipatory bail to the respondents – original accused deserve to be quashed and set aside and the matters are to be remitted to the High Court to consider the anticipatory bail applications afresh and thereafter to pass appropriate orders in accordance with law and on their own merits and taking into consideration the observations made hereinabove.”

3.11. The Apex Court had requested this Court to finally decide and dispose of the bail applications, preferably within a period of four weeks from the date of receipt of the order dated 2.12.2022. The matter was placed before me on the eve of the Christmas Holidays on 22.12.2022. The arguments were completed on 13.1.2023. The CBI produced the CD files on 17.1.2023.

### **Prosecution Case**

4. All the accused conspired together to falsely implicate Sri.S.Nambi Narayanan, an eminent scientist of ISRO, and others in the espionage case. The accused deliberately leaked the information to the press to create a narrative implicating the scientists of Liquid Propulsion Systems Centre. They arrested the scientists, deliberately suppressed



the material facts, and tampered with the investigation. They further permitted the unauthorized interrogation of Ms.Mariyam Rasheeda and the scientists by the officials of the Intelligence Bureau. There was a deliberate attempt to remove Sri.S.Nambi Narayanan from the project of Cryogenic Technology for defeating the prestigious mission of ISRO.

The respective roles played by each accused

4.1. Sri.S.Vijayan (accused No.1/petitioner No.1 in B.A.No.5109/2021): He wrongfully confined Ms.Mariyam Rasheeda from 13.10.1994 to 20.10.1994 by keeping her passport and Air tickets, thereby preventing her from leaving the country. He falsely implicated Ms.Mariyam Rasheeda in Crime No.225 of 1994 of Vanchiyoor Police Station. Media personnel were brought to the scene when Ms.Mariyam Rasheeda was arrested in Crime No.225 of 1994 in his office at Thiruvananthapuram, projecting her as a spy, thereby he defamed Ms.Mariyam Rasheeda, allowed interrogation of Ms.Mariyam Rasheeda unlawfully by the Intelligence Bureau officials, submitted a false report for registering Crime No.246 of 1994 (espionage case) against Ms.Mariyam Rasheeda and Ms.Fauzia Hassan under the penal provisions of the Official Secrets Act, 1923 which was found to be false and baseless, arrested Ms.Mariyam Rasheeda and Ms.Fauzia Hassan in espionage case, conspired to stall the Cryogenic project of ISRO which

led to the false implication of Sri.Nambi Narayanan and Sri.D.Sasikumaran in Crime No.246 of 1994.

4.2. Sri.Thampi S Durgadutt (Accused No.2/petitioner No.2 in B.A.No.5109/2021): He was part of the Kerala Police Team which interrogated the arrested persons. He registered FIR in Crime No.225 of 1994 under the provisions of the Foreigners Act, 1946, against Ms.Mariyam Rasheeda and tortured her.

4.3. Sri.Siby Mathews (accused No.4/petitioner in Crl.M.C.No.4424/2021, which arose from Crl.M.C.No.1226/2021 of the Sessions Court, Thiruvananthapuram): He headed the SIT, which investigated both the crimes. He directed the arrest of Sri.D.Sasikumaran, Sri.K.Chandrasekharan, Sri.S.Nambi Narayanan, and Sri.S.K.Sharma without any evidence against them and absolutely based on the incorrect interrogation report prepared by the Intelligence Bureau Officials and falsely implicated them in Crime No.246 of 1994 (espionage case). On 30.11.1994, he made a recommendation to the DGP Crime Branch for the transfer of investigation of the cases to the CBI. But, at the same time, he directed the arrest of Sri.Nambi Narayanan on the same day without any evidence. He permitted the interrogation of the accused persons arrested in Crime No.246 of 1994 in the custody of the Kerala Police unlawfully by the IB officials. He

allowed the torture of arrested persons in the custody of the Kerala Police during interrogation by the Officials of the Kerala Police and the IB.

4.4. Sri.R.B.Sreekumar (accused No.7/petitioner in B.A.No. 5809/2021): He was the Deputy Director of the IB team at the relevant time. He played an active role in the wrongful detention/keeping under the surveillance of Ms.Mariyam Rasheeda in Hotel Samrat from 15.10.1994 till her formal arrest in Crime No.225 of 1994. He coordinated with the Kerala Police on behalf of the Intelligence Bureau. He allowed the IB team to prepare incorrect interrogation reports, which led to the false implication of Ms.Mariyam Rasheeda, Ms.Fauzia Hassan, Sri.S.Nambi Narayanan, etc.. He played an active role in the conspiracy to frame the scientists of ISRO in collusion with the Kerala Police. During the interrogation by the IB headed by him, Sri.Nambi Narayanan and Sri.Sasikumaran were pressurized and even tortured. The investigation of the case was virtually hijacked by the IB team headed by Sri.R.B.Sreekumar.

4.5. Sri.P.S. Jayaprakash (accused No.11/petitioner in B.A.No.5010/2021): He was part of the IB team which had interrogated the arrested persons in the custody of the Kerala Police. He prepared incorrect interrogation reports of Ms.Mariyam Rasheeda, Ms.Fauzia Hassan, Sri.D.Sasikumaran and Sri.K.Chandrasekharan and tortured the

arrested persons during the interrogation in the custody of the Kerala Police. He was part of the larger conspiracy to stall the Cryogenic Project of the ISRO.

4.6. Shri.V.K.Maini (accused No.17/petitioner in B.A.No.6502/2021): He was part of the IB team which interrogated the arrested persons.

### **Submissions**

5. The learned Senior Counsel Sri.S.Sreekumar appearing for accused No.7, submitted the following:-

Accused No.7 discharged his official duty without any malafides. The Kerala Police arrested Ms.Mariyam Rasheeda for overstaying and thereafter, during the investigation by the Kerala Police, the names of Sri.Nambi Narayanan and others were disclosed much before the investigation was handed over to the SIT. Accused No.7 was not part of the SIT constituted for investigating the matter. He only assisted the SIT in the matter of questioning the accused persons at the request of the Kerala Police. He had never interrogated Sri.Nambi Narayanan. He was assigned the duty of interrogating only Sri.D.Sasikumaran. Accused No.7 and the other accused were not parties to the proceedings of Justice D.K.Jain Committee, and therefore, they were not given the opportunity to place relevant materials before the

Committee.

5.1. The learned counsel for accused No.11 Sri.Kaleeswaram Raj submitted the following:-

Accused No.11 had not even seen Sri.Nambi Narayanan. Political vengeance was the reason for implicating accused No.11 in the crime. The CBI has no interest in `interrogation' but only interested in the `incarceration' of the accused. Custodial interrogation of the accused is not required. The prosecution failed to pinpoint the role of each of the accused in the allegations touching the theory of conspiracy. The facts presented by the prosecution are not supported by any acceptable substance.

5.2. The learned counsel appearing for accused No.4 Sri.V.Ajakumar submitted the following:-

Five out of the eighteen accused are being differentially treated by the CBI. Accused No.4 had no direct role in the registration of the crime. He only happened to be the head of the SIT. Out of the non-bailable offences alleged against the accused, registration of FIR in respect of the offence under Section 195 IPC is in violation of the procedure provided in Section 195 Cr.P.C. The ingredients of the offence punishable under Section 365 IPC are lacking in the allegations, and the accused are entitled to the protection of Sections 76 and 79 of

the Indian Penal Code. The prosecution failed to establish the requirements of custodial interrogation of the accused.

5.3. Sri.Sasthamangalam S. Ajithkumar, the learned counsel appearing for accused Nos.1 and 2, submitted that the accused were not parties to the proceedings of Justice D.K.Jain Committee and, therefore, they had no opportunity to know the conclusions of the report which formed the foundation of registration of the FIR.

5.4. Sri.Pankaj Mehta, the learned counsel appearing for the petitioner in B.A.No.6502 of 2021, submitted that accused No.17 had not interrogated the accused in Crime Nos.225/1994 and 246 of 1994 and that he only collected the documents as a member of the IB team.

5.5. Sri.S.V.Raju, the learned Additional Solicitor General of India (ASG), made the following submissions:-

Accused No.7, who was the Deputy Director of the Intelligence Bureau at the relevant time, had played an active role in the wrongful detention of Ms.Mariyam Rasheeda at Hotel Samrat, Thiruvananthapuram, from 15.10.1994 till her formal arrest in the falsely registered Crime No.225/1994. Accused No.7, being the head of the Intelligence Bureau Team at Thiruvananthapuram interrogated the arrested persons in the custody of the Kerala Police and had prepared incorrect interrogation reports of Ms.Mariyam Rasheeda, Ms.Fauzia

Hassan, Sri.D.Sasikumaran, Sri.K.Chandrasekharan, Sri.S.Nambi Narayanan and Sri.S.K.Sharma. Accused No.7 played a very active role in the conspiracy hatched with the intent to stop the Cryogenic Project of ISRO. Sri.Nambi Narayanan and Sri.D.Sasikumaran were pressurized and even tortured by the interrogators to falsely implicate Sri.Muthunayagam and Sri.U.R.Rao, who were in charge of the Cryogenic Project of ISRO in the espionage case. Accused No.4, being the head of the SIT, which investigated both crimes, directed the arrest of Sri.Nambi Narayanan, Sri.D.Sasikumaran, Sri.K.Chandrasekharan and Sri.S.K.Sharma without any evidence against them and only based on incorrect interrogation reports prepared by the IB officials. On 30.11.1994, accused No.4 made a recommendation to the Director General of Police, Kerala, for transfer of investigation of the case and, at the same time, directed the arrest of Sri.Nambi Narayanan on the same day itself. Accused No.4 allowed interrogation of the accused persons arrested in Crime No.246/1994 in the custody of the Kerala Police, exclusively and unlawfully, by the IB officials. Accused No.4 allowed the torture of arrested accused persons during interrogation in the custody of the Kerala Police. Accused No.1, the Inspector, Special Branch, wrongfully confined Ms.Mariyam Rasheeda during the period from 13.10.1994 to 20.10.1994 by keeping her passport

and Air tickets, thereby preventing her from leaving the country and thereafter registered Crime No.225/1994 of Vanchiyoor Police Station against her under the Foreigners Act, 1946 alleging overstaying in India. Accused No.1 also allowed the interrogation of Ms.Mariyam Rasheeda unlawfully by the IB officials. The materials collected indicate a larger conspiracy to stall the Cryogenic Project of ISRO. Sri.P.S.Jayaprakash (A11) was part of the IB team which had interrogated the arrested accused persons in the custody of the Kerala Police and had prepared incorrect interrogation reports of Ms.Mariyam Rasheeda, Ms.Fauzia Hassan, Sri.D.Sasikumaran and Sri.K.Chandrasekharan. The arrested persons were tortured during the interrogation in the custody of the Kerala Police by the IB team, of which accused No.11 was a part.

5.6. Sri.C.Unnikrishnan, the learned counsel appearing for Sri.Nambi Narayanan submitted the following:-

The intention of the accused was to stall the Cryogenic Project as part of a conspiracy. Accused Nos.1 and 2 registered the crime in violation of Section 13 of the Official Secrets Act, 1923 with the definite intention of stalling the Cryogenic Project undertaken by the ISRO. The larger conspiracy hatched by the accused could be revealed only by way of custodial interrogation, and therefore, they are not entitled to the



relief of pre-arrest bail.

5.7. Sri.Prasad Gandhi, the learned counsel appearing for Ms.Mariyam Rasheeda and Ms.Fauzia Hassan, submitted that the arrest and registration of Crime Nos.225 & 246 of 2021 was part of a larger conspiracy to defame the victims and to defeat the advancement of Rocket Engineering Programme of India. The Maldivian Nationals were tortured by the local police, and they suffered untoward hardships and agony at the hands of the accused, the counsel added.

### **Consideration**

6. The scope of judicial evaluation in an application under Section 438 Cr.P.C. is limited. The first and foremost thing that the Court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into, along with the severity of the punishment. The necessity of custodial interrogation can be one of the grounds for declining the relief of anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, it cannot be a ground to grant anticipatory bail [vide: x x x v. Arun Kumar C.K. & Another (2022 LiveLaw (SC) 870)].

7. Coming to the materials placed in support of the prosecution.

8. Out of the above-mentioned ten heads of offences, the offences punishable under Sections 195, 365, and 120-B of IPC (depending upon the nature of the principal offence) are non-bailable.

9. A careful examination of the Case Diary and Justice D.K.Jain Committee Report reveals the following materials in support of the prosecution:-

9.1. The Kerala Police, headed by accused No.4, lost sight of Order No.25022/2/90-F.I dated 1.3.1990 of the Government of India, which exempted the passport holders of Maldivian Nationals from obtaining visas while visiting India, provided their stay did not exceed 90 days. The Kerala Police ignored the fact that Ms.Mariyam Rasheeda had a valid confirmed Air ticket to Maldives for 17.10.1994 booked with Indian Airlines, which was deliberately not placed on record by accused No.1, Sri.S.Vijayan. The Kerala Police also lost sight of the fact that Ms.Mariyam Rasheeda had a ticket for Male on 29.9.1994 but could not travel due to nationwide strike called by the LDF and further that she was precluded from travelling due to a plague scare. The Kerala Police also ignored the fact that she had approached the competent authority for an extension of her visa, which indicated her bonafides. The CBI confirmed that Ms.Mariyam Rasheeda and Ms.Fauzia Hassan visited the office of Inspector Sri.Vijayan on 13.10.1994 along with the confirmed

tickets for extension of visa for two days as she was under the impression that her visa was going to expire on 14.10.1994. Sri.Vijayan kept her passport from 13.10.1994 to 15.10.1994, and he asked her to report to his office, where she was arrested. The FIR registered narrated a different story that Sri.Vijayan, during enquiry, on 20.10.1994, came to know that Ms.Mariyam Rasheeda had shifted from Hotel Samrat to House No.TC-29/786, "Geethanjali" at Palkulangara, Thiruvananthapuram. The Kerala Police were in contact with Ms.Mariyam Rasheeda much prior to 20.10.1994, which is contrary to the FIR. There was suppression of material facts. The Case Diary in Crime No.225 of 1994 did not contain all the relevant facts collected during the investigation. Though Sri.Vijayan insisted that Ms.Mariyam Rasheeda was required for further questioning in the interests of the sovereignty and integrity of India, no police remand was seen sought from the Court.

9.2. Sri.Vijayan (accused No.1) highlighted that Ms.Mariyam Rasheeda was contacting some persons regularly, and some of the telephone numbers contacted by her were of an institution concerned with the defense of India. Sri.Vijayan recovered a personal diary of Ms.Mariyam Rasheeda, which *inter alia* contained the telephone numbers of Sri.D.Sasikumaran, a scientist of ISRO. The CBI, during the

investigation, collected the details of phone calls made by Sri.D.Sasikumaran, which revealed that Ms.Mariyam Rasheeda had made only one call at his residence on 20.9.1994, and she referred to Sri.D.Sasikumaran as her friend.

9.3. No attempt was made either on the part of Sri.Vijayan or Sri.Thampi S Durgadutt to collect the information regarding the kind of friendship maintained by Ms.Mariyam Rasheeda with Sri.D.Sasikumaran. Though the Kerala Police and the IB maintained the stand that Ms.Mariyam Rasheeda was suspectedly involved in espionage activities, no serious attempt appears to have been made by any of the investigating agency. Though the Case Diary and remand application would reveal that the Investigating Agency harboured suspicion that Ms.Mariyam Rasheeda was a spy working with the Maldivian Army and had contacts with Sri.D.Sasikumaran working in the ISRO, no request for police custody was made. The documents recovered from the possession of Ms.Mariyam Rasheeda in Dwivegi language did not suggest any espionage activities relating to PSLV technology or any other technology. On 16.10.1994, after interrogation, the IB Officials informed Sri.Vijayan that they did not suspect anything except that Mr.D.Sasikumaran was a womaniser. Sri.Vijayan disagreed and decided that Ms.Mariyam Rasheeda should be

examined by the IB and R&AW jointly, indicating that the police officers were taking undue interest in ensuring that Ms.Mariyam Rasheeda should be arrested and should be implicated in some espionage case. In Crime No.246 of 1994 (espionage matter) though police custody of Ms.Mariyam Rasheeda was granted to Sri.Thambi S Durgadutt, she was interrogated by the IB Officials from 4.11.1994 without the involvement of the local police.

9.4. Based on the interrogation report and statement, placed on record by Sri.Vijayan (accused No.1), the Commissioner of Police Sri.V.R.Rajivan directed the Police to register FIR under Sections 3, and 4 of the Official Secrets Act, 1923 without any foundation as the FIR revealed no specific overt act to invoke the provisions of the Official Secrets Act, 1923.

9.5. Even prior to the registration of the crime, the Kerala Police brought in the Central Agencies such as the Intelligence Bureau and R&AW and permitted them to interrogate Ms.Mariyam Rasheeda to ascertain her involvement in espionage without any legal authority and without creating any records on the interrogation. While the IB and other Central Agencies concluded that there was no evidence to show that Ms.Mariyam Rasheeda was connected with espionage activities in relation to VSSC scientists, the Kerala Police did not forego the

espionage theory and proceeded with the conclusion of criminality in her connection with the VSSC scientists. Though the FIR was registered for the offence punishable under Section 14 of the Foreigners Act, 1946 against Ms.Mariyam Rasheeda wherein it was recorded that she was to be interrogated in the interests of sovereignty and integrity of the country, no police custody of Ms.Mariyam Rasheeda was sought or obtained. Several mandatory procedures were flouted by the Investigating Agencies.

9.6. Even when the Additional Public Prosecutor concerned gave an opinion that it would not be possible to take Ms.Mariyam Rasheeda into police custody, at the directions of the higher authorities, Crime No.246 of 1994 was registered, and the Maldivian women were taken into custody, based on the espionage theory, though there was no material on record showing their involvement and thereafter, Sr.D.Sasikumaran was arrested without any material. Sri.Nambi Narayanan and Sri.K.Chandrasekharan were tortured in police custody.

10. The relevant question in view of the above materials is whether the prosecution has prima facie established the non-bailable offences punishable under Sections 195, 365, and 120-B of IPC.

11. The essential ingredients of an offence under Section 195 IPC are;

(i) That the offender gave false (or fabricated) evidence.

(ii) That the offender, when giving or fabricating the same, intended thereby to cause, or knew that it was likely that he would thereby cause, the person in question to be convicted of an offence punishable with imprisonment for life (or imprisonment for a term of seven years or upwards) under the Indian Penal Code.

12. In order to attract the offence under Section 195, it is not only necessary to prove that the accused fabricated false evidence but also that he knew he was fabricating evidence.

13. The essential ingredients of an offence under Section 365 are;

(i) That the offender kidnapped or abducted any person

(ii) That he did so with the intent to cause that person to be confined secretly and wrongfully.

14. The ingredients of criminal conspiracy to constitute offence under Section 120-B of IPC are as follows:-

(i) There should be an agreement (concert or league) between two or more persons;

(ii) Such an agreement should be (i) either for doing an illegal act

(ii) or for doing an act by illegal means, (iii) or for breaking the law, i.e., an act which is made punishable by this Code;

(iii) Such an agreement must follow an overt act.

15. In **Zakia Ahsan Jafri v. State of Gujarat (AIR 2022 SC 3050)**, the Apex Court held that every act of commission and omission would not result in hatching criminal conspiracy unless the acts have been done deliberately and there is meeting of minds of all concerned.

16. Now, I shall analyse whether the materials placed by the prosecution and the other circumstances projected are sufficient to prima facie establish that the petitioners/accused committed the non-bailable offences alleged.

17. Admittedly, Ms.Mariyam Rasheeda, Ms.Fauzia Hassan, and the others, who were arrested in connection with the crimes registered by the Kerala Police, were produced before the jurisdictional Magistrate within 24 hours.

18. A perusal of the Case Diary and other relevant materials would reveal that in the statements of some of the witnesses recorded by the CBI it has come out that Sri.D.Sasikumaran and Sri.K.Chandrasekharan had contacted each other to help Ms.Mariyam Rasheeda, who was staying in Thiruvananthapuram in a hotel, and Sri.D.Sasikumaran had met her. It has also come out in the materials that Sri.Nambi Narayanan was arrested based on the suspicion that he



had attempted to resign from ISRO just after the arrest of one of the Maldivian ladies with intent to join a private firm in France and also in the backdrop of the fact that the Maldivian ladies had contacted two scientists attached to ISRO. These facts point to the circumstances in which the Kerala Police and the IB at the time of registration of the crime and immediately thereafter before the transfer of the case to CBI, had some suspicion regarding the allegations they raised in the respective FIRs. It is true that, ultimately the CBI could conclude that the allegations foisted by the Kerala Police and the doubt maintained by the IB Officials were found to be false and baseless.

19. The facts that two scientists of ISRO had repeatedly contacted a Maldivian National and Sri.Nambi Narayanan had submitted an application seeking voluntary retirement, are highlighted by the counsel for the accused as a justification for developing suspicion in the minds of the Officials of the Kerala Police and the IB for the registration of the two crimes, the premises of which were later found to be false and baseless resulting in the torture and harassment of Sri.Nambi Narayanan and others. The concerns of the Kerala Police and the IB at that stage could not be said to be without any foundation.

20. What appears from the materials is that there was a glaring lack of professionalism in the discharge of duties by the accused

especially by the officials of the Kerala Police. However, the mental element of the accused in the commission of the alleged offences and their alleged participation in a conspiracy as projected by the prosecution is yet to be established by the CBI.

21. The CBI invoked the provisions of Section 195 IPC essentially on the ground that the Kerala Police suppressed facts at the time of registration of the FIRs and during investigation, and they recorded false statements intending to implicate them in grave offences. The materials placed before me would indicate that the accused manipulated the statements of the accused and witnesses in Crime Nos.225 and 246 of 1994.

22. Criminal guilt would attach to a man for violations of criminal law. This principle is subject to limitations indicated in the maxim "*actus non facit reum, nisi mens sit rea*". A mere commission of a criminal act is not enough to constitute a crime, and this is more important in the case of more serious crimes. These generally require an element of wrongful intent. Criminal jurisprudence insists upon this 'fault element' with the mark of advancing civilization. The sum and substance of the above principle are that the prosecution has to prima facie establish that the accused had the necessary intention to commit the acts or omissions.

23. The elements of *mens rea* for the commission of the offences punishable under Sections 195 and 365 IPC are prima facie not revealed.

24. The learned counsel for accused No.4 contended that even if the whole prosecution case is admitted, the accused are entitled to the protection contained in Sections 76 and 79 of IPC. It is submitted that there must be a bonafide intention to advance the law manifested by the circumstances attending the act, which is the subject of the charge. It is submitted that the present accused believed in good faith that they were bound by law to do as they did or that, being empowered by law to act in the matter, they had acted to the best of their judgment exerted in good faith. I find force in this submission.

25. On the theory of conspiracy, this Court put a query to the learned Additional Solicitor General as to what materials they have so far collected. The learned Additional Solicitor General submitted that only after a thorough interrogation of the accused the CBI could unearth the conspiracy for which their custodial interrogation is highly required. It is vehemently contended that the investigation conducted so far indicates a larger conspiracy to stall the Cryogenic Project of ISRO, which was crucial for India's Space Programme in which

Sri.Nambi Narayanan would have contributed substantially. The learned counsel for accused No.4 resisted the submission and contended that Sri.Nambi Narayanan had no role in the Cryogenic Project of ISRO at any time. He relied on a letter dated 25.11.1994 addressed to accused No.4 by the then Director of Liquid Propulsion Systems Centre, Valiamala Sri.A.E.Muthunayagam (Annexure N report in CrI.M.C.No.4424 of 2021). In the above-said letter, Sri.Muthunayagam had stated that as Sri.R.Karunanidhi and Sri.K.Lakshminarayanan associated with the Cryogenic System Project had taken voluntary retirement Sri.Md. Muslim had taken over the position of Deputy Project Director, Project Management Office in place of Sri.K.Lakshminarayanan. The learned counsel relied on this letter wherein there is no mention of Sri.Nambi Narayanan, who voluntarily tendered his resignation, to contend that he had no role in the Cryogenic System Project.

26. On a careful analysis of the materials placed before the Court, I am of the view that the prosecution has so far not prima facie established any element of conspiracy as projected by the learned Additional Solicitor General.

27. The learned Additional Solicitor General has further contended that the alleged conspiracy has international ramifications. I

have carefully examined the Case Diary and the Justice D.K.Jain Committee Report. I am unable to find any credible material to prima facie find any elements of such conspiracy. There is absolutely no indication or credible material to prima facie hold that a foreign power had a hand in persuading the petitioners/accused in the registration of the two crimes referred to above.

28. The further submission of the learned Additional Solicitor General is that the investigation in the case is at the early stage, and only after interrogation of the petitioners the CBI could collect the relevant materials.

29. The contention of the learned Additional Solicitor General that the accused are to be interrogated cannot be lost sight of. The question here is whether the custodial interrogation of the petitioners/accused is required or not. The petitioners/accused have placed materials showing their old age ailments. There is nothing to show that they may flee from justice. They have made an undertaking to the effect that they would co-operate with the investigation. If the CBI could place materials on record which would prima facie make the accusations well founded, the petitioners/accused could not have been entitled to the relief of pre-arrest bail.

30. The learned counsel appearing for Sri.Nambi Narayanan made a submission that there is no justification for the petitioners/accused to seek the relief of anticipatory bail based on the principle of liberty as by way of their acts Sri.Nambi Narayanan's liberty and dignity were put in peril. I am unable to accept this contention. It is true that Sri.Nambi Narayanan was subjected to torture, harassment, and undue hardships at the hands of the accused. Is it ground to extend the same ignominy to the present accused ? While answering this, it is apposite to quote Justice V.R.Krishna Iyer: "The Dharma of a man is to be human, of being true to the dignity and worth of the human person, of showing reverence for life, love, compassion and equal regard for fellow beings." (Law versus Justice, Problems and Solutions, Justice V.R.Krishna Iyer, p.223). It appears that the officials of the Kerala Police had ignored *Dharma*. This Court functions within the four corners of *Dharma*, which under the present system includes the Constitution and the laws.

31. While considering the scope of jurisdiction under Section 438 Cr.P.C., the Constitution Bench of the Apex Court in **Gurbaksh Singh Sibbia & Ors. v. State of Punjab [(1980) 2 SCC 565]** held thus:

"31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in *State v. Captain Jagjit Singh* [AIR 1962 SC 253 : (1962) 3 SCR 622 : (1962) 1 Cri LJ 216] , which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail."

32. In **Siddharam Satlingappa Mhetre v. State of Maharashtra [(2011) 1 SCC 694]** the Apex Court held thus:-

"113. Arrest should be the last option and it should be restricted to those exceptional cases where arresting the

accused is imperative in the facts and circumstances of that case. The court must carefully examine the entire available record and particularly the allegations which have been directly attributed to the accused and these allegations are corroborated by other material and circumstances on record.”

(In *Sushila Aggarwal v. State (NCT of Delhi)* [(2020) 5 SCC 1]) the declaration of law in *Siddharam Satlingappa Mhetre* that no condition can be imposed while granting order of anticipatory bail alone was overruled)

33. In **Sushila Aggarwal**, the Constitution Bench of the Apex Court, following the decision in **Gurbaksh Singh Sibbia**, held that while considering an application (for grant of anticipatory bail) the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc.

34. In the present case, the CBI could not place any concrete materials on record which prima facie make the accusations against the petitioners/accused well founded. The ‘mens rea’ of the petitioners in the commission of the alleged offences is doubtful. There is no possibility of the petitioners fleeing from justice. The apprehension of tampering of the witnesses has no basis. The prosecution failed to establish that prejudice would be caused to free, fair, and full investigation in the event of granting anticipatory bail to the petitioners.



35. Having considered the entire circumstances on the touchstone of the precedents mentioned above, I am of the view that the petitioners/accused are entitled to anticipatory bail.

36. In the result, the Bail Applications and the Crl.M.C. are allowed on the following conditions:

- (1) The petitioners shall appear before the Investigating Officer on 27.1.2023 between 10 a.m. and 11 a.m. for interrogation. In the event of their arrest, they shall be released on bail on their executing bond for Rs.1,00,000/- (Rupees One Lakh only) each with two solvent sureties each for the like sum.
- (2) They shall continue to appear before the Investigating Officer for interrogation on Mondays and Fridays for a period of two weeks.
- (3) The petitioners shall not leave India without the permission of the jurisdictional Court.
- (4) The petitioners shall continue to report before the Investigating Officer for interrogation as and when required.
- (5) The petitioners shall not influence the witnesses or tamper with the evidence.
- (6) They shall fully co-operate with the investigation, including subjecting themselves to 'deemed custody', as observed in Gurbaksh Singh Sibbia & Others. v. State of Punjab and Sushila Aggarwal & Others v. State (NCT of Delhi) and Ors. (AIR 2020 SC 831), for the purpose of discovery or identification, if any.

I make it clear that the observations made in this order are only for the

B.A.Nos.5010 of 2021 &  
Connected cases

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purpose of the disposal of these bail applications.

Registry shall hand over the report of Justice D.K.Jain Committee and the Case Diary, sealed by the Private Secretary in my presence, to the learned Central Government Counsel who assisted the learned Additional Solicitor General.

**K.BABU**  
**Judge**

TKS

APPENDIX OF BAIL APPL. 5010/2021

**RESPONDENT ANNEXURES**

**Annexure R1 (a) : A TRUE COPY OF THE JUDGMENT OF THE HON'BLE SUPREME COURT OF INDIA IN CIVIL APPEAL NO.6637 AND 6638 OF 2018 DATED 14/09/2018**

**Annexure R1 (b) : TRUE COPY OF THE ORDER DATED 15/04/2021 OF THE HON'BLE SUPREME COURT OF INDIA IN MISCELLANEOUS APPLICATION NO.586-587 OF 2021 IN CIVIL APPEAL NO.6637 OF 2018**

**PETITIONER ANNEXURES**

**Annexure 1- TRUE COPY OF THE CORONARY ANGIOPLASTY REPORT DATED 26/07/2021 TOGETHER WITH DISCHARGE SUMMARY ISSUED BY THE CONSULTANT INTERVENTIONAL CARDIOLOGIST OF THE HOSPITAL.**

**Annexure AII TRUE COPY OF THE PLAINT IN OS NO. 370/2003 FILED BY MR.S.NAMBI NARAYANAN BEFORE THE HON'BLE SUB COURT THIRUVAVANTHAPURAM**

APPENDIX OF BAIL APPL. 5109/2021

PETITIONER ANNEXURES

Annexure 1: THE TRUE COPY OF FIR IN CRIME RC0502021S0007  
DATED 01/05/2021 SC-II DELHI POLICE STATION CBI

Annexure 2: THE TRUE COPY OF ORDER DT 25/06/2021 IN  
CRL.M.C.NO.1226/21 OF BEFORE THE SESSIONS'  
JUDGE, THIRUVANANTHAPURAM

RESPONDENT ANNEXURES

Annexure R1(a) " A TRUE COPY OF THE JUDGMENT OF THE HON'BLE  
SUPREME COURT OF INDIA IN CIVIL APPEAL NO.6637  
AND 6638 OF 2018 DATED 14/09/2018

Annexure R1(b) : TRUE COPY OF THE ORDER DATED 15/04/2021 OF THE  
HON'BLE SUPREME COURT OF INDIA IN MISCELLANEOUS  
APPLICATION NO.586-587 OF 2021 IN CIVIL APPEAL  
NO.6637 AND 6638 OF 2018

PETITIONER ANNEXURES

Annexure A3 NOTICE UNDER SEC.160 CRPC

Annexure A5- REPLY STATEMENT FILED BY THE CBI IN  
CRL.M.C.NO.4831/2013

RESPONDENT ANNEXURES

Annexure R2(a) - TRUE COPY OF THE "AN OPEN LETTER" DATED  
26/12/1996 SIGNED BY 6 VERY SENIOR AND EMINENT  
PERSONALITIES OF ISRO.

PETITIONER ANNEXURES

Annexure A6- THE TRUE COPY OF THE ANTICIPATORY BAIL  
APPLICATION OF SIBY MATHEWS IPS BEARING  
CRL.M.C.1226 OF 2021 WITHOUT ANNEXURE FILED  
BEFORE THE SESSION'S JUDGE THIRUVANANTHAPURAM

Annexure A8 TRUE COPY OF THE REMAND APPLICATION DATED  
21.10.94 ALONG WITH SMT. MARIAM RASHEEDA WITH A  
REQUEST TO REMAND HER FOR 14 DAYS UNDER  
JUDICIAL CUSTODY SUBMITTED BY THE 2ND  
PETITIONER BEFORE THE ADL. CJM,  
THIRUVANANTHAPURAM

Annexure A9 TRUE COPY OF THE MEMO OF APPEARANCE FILED BY  
ADVOCATES B.S PRASAD GANDHI & K.D. NAIR,  
VANCHIYOOR, THIRUVANANTHAPURAM DATED 22/10/1994

- Annexure A10 TRUE COPY OF THE PETITION DATED 03/11/1994 SEEKING THE CUSTODY OF SMT. MARIAM RASHEEDA FOR CUSTODIAL INTERROGATION.
- Annexure A11 TRUE COPY OF THE AFFIDAVIT DATED 03/11/1994 SUBMITTED ALONG WITH PETITION DATED 03/11/1994 BEFORE THE ADL. CJM, THIRUVANANTHAPURAM.
- Annexure A12 TRUE COPY OF THE ORDER DATED 03/11/94 IN CMP 10228/94 (VANCHIYOOR PS CRIME 225 OF 1994) OF THE ADL. CJM, THIRUVANANTHAPURAM
- Annexure A13 TRUE COPY OF THE FIR IN CRIME 246/94 U/S. 3 & 4 OF INDIAN OFFICIAL SECRETS ACT, 1923 R/W SECTION 34 IPC AND REPORT DATED 13/11/1994 BASED ON WHICH CRIME 246/94 OF VANCHIYOOR PS IS REGISTERED.
- Annexure A14 TRUE COPY OF THE REMAND APPLICATION IN CRIME 246 /1994 SUBMITTED BY THE 1ST PETITIONER BEFORE THE ADL. CJM, THIRUVANANTHAPURAM.
- Annexure A15 TRUE COPY OF THE REMAND EXTENSION APPLICATION DATED 14/11/1994 IN CRIME 225 OF 1994 OF VANCHIYOOR POLICE STATION PERTAINING TO SMT. MARIAM RASHEEDA SUBMITTED BY THE 1ST PETITIONER BEFORE THE ADL. CJM, THIRUVANANTHAPURAM
- Annexure A16 TRUE COPY OF THE PROCEEDINGS VIDE ORDER NO. CONF DL.I/91232/94 DATED 15.11.1994 CONSTITUTING A SPECIAL TEAM FOR THE INVESTIGATION OF CRIME 225/94 & 246/94 OF VANCHIYOOR POLICE STATION ISSUED BY SRI. T.V. MADHOSOODHANAN IPS, DIRECTOR GENERAL OF POLICE, POLICE HEADQUARTERS, THIRUVANANTHAPURAM.
- Annexure A17 TRUE COPY OF PRESS NOTE CIRCULATED BY SRI. DR. A.E. MUTHUYANGAM AND OTHER SENIOR SCIENTISTS DURING PRESS MEET ON 24/08/2022 AT PRESS CLUB, THIRUVANANTHAPURAM REGARDING ISRO CASE.
- Annexure A17 (a) NEWS CUTTING TAKEN FROM THE NEW INDIAN EXPRESS, DAILY PUBLISHED FROM THIRUVANANTHAPURAM ON 25/08/2022 REGARDING THE PRESS MEET IN ISRO CASE/FILM "ROCKETRY" BY SRI. DR. A.E. MUTHUYANGAM AND OTHER SENIOR SCIENTISTS.

- Annexure A17 (b)** NEWS CUTTING TAKEN FROM MALAYALA MANORAMA, DAILY THIRUVANANTHAPURAM EDITION PUBLISHED IN 25/08/2022 REGARDING THE PRESS MEET IN ISRO CASE/FILM "ROCKETRY" BY SRI. DR. A.E. MUTHUYANGAM AND OTHER SENIOR SCIENTISTS.
- Annexure A18** TRUE COPY OF THE REMAND APPLICATION DATED 21.10.94 ALONG WITH SMT. MARIAM RASHEEDA WITH A REQUEST TO REMAND HER FOR 14 DAYS UNDER JUDICIAL CUSTODY SUBMITTED BY THE 2ND PETITIONER BEFORE THE ADL. CJM, THIRUVANANTHAPURAM
- Annexure A19** TRUE COPY OF THE MEMO OF APPEARANCE FILED BY ADVOCATES B.S PRASAD GANDHI & K.D. NAIR, VANCHIYOOR, THIRUVANANTHAPURAM DATED 22/10/1994
- Annexure A20** TRUE COPY OF THE PETITION DATED 03/11/1994 SEEKING THE CUSTODY OF SMT. MARIAM RASHEEDA FOR CUSTODIAL INTERROGATION.
- Annexure A21** TRUE COPY OF THE AFFIDAVIT DATED 03/11/1994 SUBMITTED ALONG WITH PETITION DATED 03/11/1994 BEFORE THE ADL. CJM, THIRUVANANTHAPURAM.
- Annexure A22** TRUE COPY OF THE ORDER DATED 03/11/94 IN CMP 10228/94 (VANCHIYOOR PS CRIME 225 OF 1994) OF THE ADL. CJM, THIRUVANANTHAPURAM
- Annexure A23** TRUE COPY OF THE FIR IN CRIME 246/94 U/S. 3 & 4 OF INDIAN OFFICIAL SECRETS ACT, 1923 R/W SECTION 34 IPC AND REPORT DATED 13/11/1994 BASED ON WHICH CRIME 246/94 OF VANCHIYOOR PS IS REGISTERED.
- Annexure A24** TRUE COPY OF THE REMAND APPLICATION IN CRIME 246 /1994 SUBMITTED BY THE 1ST PETITIONER BEFORE THE ADL. CJM, THIRUVANANTHAPURAM.
- Annexure A25** TRUE COPY OF THE REMAND EXTENSION APPLICATION DATED 14/11/1994 IN CRIME 225 OF 1994 OF VANCHIYOOR POLICE STATION PERTAINING TO SMT. MARIAM RASHEEDA SUBMITTED BY THE 1ST PETITIONER BEFORE THE ADL. CJM, THIRUVANANTHAPURAM

- Annexure A26** TRUE COPY OF THE PROCEEDINGS VIDE ORDER NO. CONFDL.I/91232/94 DATED 15.11.1994 CONSTITUTING A SPECIAL TEAM FOR THE INVESTIGATION OF CRIME 225/94 & 246/94 OF VANCHIYOOR POLICE STATION ISSUED BY SRI. T.V. MADHOSOODHANAN IPS, DIRECTOR GENERAL OF POLICE, POLICE HEADQUARTERS, THIRUVANANTHAPURAM.
- Annexure A27** TRUE COPY OF PRESS NOTE CIRCULATED BY SRI. DR. A.E. MUTHUYANGAM AND OTHER SENIOR SCIENTISTS DURING PRESS MEET ON 24/08/2022 AT PRESS CLUB, THIRUVANANTHAPURAM REGARDING ISRO CASE.
- Annexure A27 (a)** NEWS CUTTING TAKEN FROM THE NEW INDIAN EXPRESS, DAILY PUBLISHED FROM THIRUVANANTHAPURAM ON 25/08/2022 REGARDING THE PRESS MEET IN ISRO CASE/FILM "ROCKETRY" BY SRI. DR. A.E. MUTHUYANGAM AND OTHER SENIOR SCIENTISTS.
- Annexure A27 (b)** NEWS CUTTING TAKEN FROM MALAYALA MANORAMA, DAILY THIRUVANANTHAPURAM EDITION PUBLISHED IN 25/08/2022 REGARDING THE PRESS MEET IN ISRO CASE/FILM "ROCKETRY" BY SRI. DR. A.E. MUTHUYANGAM AND OTHER SENIOR SCIENTISTS.
- Annexure A28** TRUE COPY OF THE JUDGMENT IN SATENDER KUMAR ANTIL VS. CBI AND ANOTHER, (2022) 0 AIR SC 3386.
- Annexure A29** TRUE COPY OF THE ORDER IN CRL. MC. 2270 OF 2021 DATED 07.10.2021 GRANTING ANTICIPATORY BAIL TO THE 5TH ACCUSED BY THE SESSIONS COURT, THIRUVANANTHAPURAM

APPENDIX OF BAIL APPL. 5809/2021

**PETITIONER ANNEXURES**

**Annexure A** TRUE COPY OF F.I.R NO.RC0502021S0007 OF  
SC-II DELHI POLICE STATION

**Annexure B** TRUE COPY OF ORDER OF MINISTRY HOME  
AFFAIRS DATED 24/01/2005

**RESPONDENT ANNEXURES**

**Annexure R1(a) :** A TRUE COPY OF THE JUDGMENT OF THE  
HON'BLE SUPREME COURT OF INDIA IN CIVIL  
APPEAL NO.6637 AND 6638 OF 2018 DATED  
14/09/2018

**Annexure R1(b) :** TRUE COPY OF THE ORDER DATED 15/04/2021  
OF THE HON'BLE SUPREME COURT OF INDIA IN  
MISCELLANEOUS APPLICATION NO.586-587 OF  
2021 IN CIVIL APPEAL NO.6637 AND 6638 OF  
2018



APPENDIX OF CRL.MC 4424/2021

PETITIONER ANNEXURES

- Annexure A** PHOTOCOPY OF THE ORDER DATED 24.8.2021 IN CRIMINAL M.C.NO.1226/2021 OF THE COURT OF THE SESSIONS JUDGE, THIRUVANANTHAPURAM
- Annexure B** TRUE COPY THE CRL.M.C.NO.1226/2021 FILED BY THE PETITIONER BEFORE THE HON'BLE SESSION'S JUDGE, THIRUVANANTHAPURAM UNDER SECTION 438 OF CR.P.C (WITHOUT ANNEXURES) .
- Annexure C** TRUE COPY OF THE ORDER NO.CONFDL 1/91232/1994 DATED 15/11/1994 OF THE DIRECTOR GENERAL OF POLICE CONSTITUTING SPECIAL INVESTIGATION TEAM FOR THE INVESTIGATION OF CRIME NO.225/1994 AND CRIME NO.246/1994 OF VANCHIYOOR POLICE STATION (PRODUCED AS ANNEXURE 1 IN CRL.M.C.NO.1226/2021) .
- Annexure D** TRUE COPY OF THE LETTER DATED 3/6/1996 FORWARDED BY MR.SHARADKUMAR DIG OF POLICE, CBI, SIC, NEW DELHI TO THE CHIEF SECRETARY, GOVERNMENT OF KERALA ALONG WITH REPORT REGARDING INVESTIGATION (PRODUCED AS ANNEXURE 2 IN CRL.M.C.NO.1226/2021) .
- Annexure E** TRUE COPY OF THE G.O.(RT) NO.1923/2011/ HOME DATED 29/6/2011 (PRODUCED AS ANNEXURE 3 IN CRL.M.C.NO.1226/2021) .
- Annexure F** TRUE COPY OF THE PROCEEDINGS DATED 30/3/2015 IN COMPLAINT NO.235/2011 1998-99 FILED BY MR.NAMBI NARAYAN (PRODUCED AS ANNEXURE 4 IN CRL.M.C.NO.1226/2021) .
- Annexure G** TRUE COPY OF THE JUDGMENT DATED 14/9/2018 OF THE HON'BLE SUPREME COURT OF INDIA IN CIVIL APPEAL NOS.6637-6638 OF 2018 (PRODUCED AS ANNEXURE 5 IN CRL.M.C.NO.1226/2021) .
- Annexure H** TRUE COPY OF THE ORDER DATED 15/4/2021 OF THE HON'BLE SUPREME COURT OF INDIA IN MISCELLANEOUS APPLICATION NO.586- 587/2021 IN C.A.NO.6637-6638/2018 (PRODUCED AS ANNEXURE 6 IN CRL.M.C.NO.1226/2021) .

- Annexure I** TRUE COPY OF THE LETTER DATED 1/11/94 FILED BY MR.NAMBI NARAYANAN TO THE CHAIRMAN, ISRO SEEKING VOLUNTARY RETIREMENT WITH RECOMMENDATION BY THE DIRECTOR, LPSC (PRODUCED AS ANNEXURE 8 IN CRL.M.C.NO.1226/2021) .
- Annexure J** TRUE COPY OF THE G.O.(MS) NO.203/2019/ HOME DATED 27/12/2019 (PRODUCED AS ANNEXURE 9 IN CRL.M.C.NO.1226/2021) .
- Annexure K** TRUE COPY OF THE MEMO DATED 6/1/20 FILED BY MR.NAMBI NARAYANAN IN O.S.NO.370/2003 BEFORE THE HON'BLE SUBORDINATE JUDGES COURT, THIRUVANANTHAPURAM (PRODUCED AS ANNEXURE 10 IN CRL.M.C.NO.1226/2021) .
- Annexure L** TRUE COPY OF THE ORDER DATED 14/1/2020 IN O.S.NO.370/2003 OF THE HON'BLE 1ST ADDITIONAL SUB COURT, THIRUVANANTHAPURAM (PRODUCED AS ANNEXURE 11 IN CRL.M.C.NO.1226/2021) .
- Annexure M** TRUE COPY OF THE ORDER DATED 19/3/2020 IN I.A.NO.79/2020 IN O.S.NO.370/2003 OF THE HON'BLE 1ST ADDITIONAL SUB COURT, THIRUVANANTHAPURAM (PRODUCED AS ANNEXURE 12 IN CRL.M.C.NO.1226/2021) .
- Annexure N** TRUE COPY OF THE LETTER DATED 25/11/1994 ISSUED BY A.E.MUTHUNAYAGAM TO SIBY MATHEW.IPS (PRODUCED AS ANNEXURE 13 IN CRL.M.C.NO.1226/2021) .
- Annexure O** TRUE COPY OF THE REPORT F-NO.2/1(2)/94 REGARDING VIGILANCE CASE AGAINST MR.D.SASIKUMARAN AND SRI.NAMBI NARAYANAN (PRODUCED AS ANNEXURE 14 IN CRL.M.C.NO.1226/2021) .
- Annexure P** TRUE COPY OF THE ORDER DATED 24/6/1996 OF THE SPECIAL JUDGE (SPE/CBI) II, ERNAKULAM IN R.C.NO.22/A/94. (PRODUCED AS ANNEXURE 15 AS ADDITIONAL DOCUMENT IN CRL.M.C.NO.1226/2021) .
- Annexure Q** TRUE COPY OF THE ORDER DATED 26/7/2021 OF THE HON'BLE SUPREME COURT OF INDIA IN MISCELLANEOUS APPLICATION NO.1091-1092 IN C.A.NO.6637-6638/2018 (PRODUCED AS ANNEXURE 16 AS ADDITIONAL DOCUMENT IN CRL.M.C.NO.1226/2021) .

- Annexure R** NOTICE DATED 22/7/2021 ISSUED BY SUNIL SING RAWAT - DY.SP, CBI/SC II, NEW DELHI (PRODUCED AS ANNEXURE 17 AS ADDITIONAL DOCUMENT IN CRL.M.C.NO.1226/2021) .
- Annexure S** TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED FROM KIMS HEALTH TO DR.SIBY MATHEWS
- Annexure T** TRUE COPY OF THE LETTER NO.SB/1053/OC/1994-TC DATED 24/10/1994 ISSUED BY COMMISSIONER OF POLICE TO DY. INSPECTOR GENERAL OF POLICE CID & RAILWAYS, THIRUVANANTHAPURAM
- Annexure U** TRUE COPY OF THE APPLICATION DATED 9/12/1994 FILED BY DSP, CBI II, NEW DELHI IN R.C 11(S)/94 BEFORE ADDITIONAL CHIEF JUDICIAL MAGISTRATE ALONG WITH TRUE COPY OF THE ORDER.
- Annexure V** TRUE COPY OF THE REPLY STATEMENT FILED BY CBI IN CRL.M.C.NO.4821 OF 2013.
- Annexure W** TRUE COPY OF THE GAZETTE OF INDIA DATED 20/1/1987.

TKS