



2024:KER:89451

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

FRIDAY, THE 29TH DAY OF NOVEMBER 2024 / 8TH AGRAHAYANA, 1946

CRL.A NO. 1840 OF 2024

CRIME NO.2/2022 OF NATIONAL INVESTIGATION AGENCY KOCHI, Ernakulam

AGAINST THE ORDER DATED 29.08.2024 IN SC NO.2 OF 2023 OF SPECIAL

COURT FOR TRIAL OF NIA CASES, ERNAKULAM

APPELLANTS/PETITIONERS/ACCUSED 31, 35, 36:

- 1 HANEEFA, AGED 29 YEARS, S/O.MUHAMMED, KALLEKATTIL HOUSE, KODALLOOR, MARUTHUR P.O., PATTAMBI, PALAKKAD, PIN - 679336
- 2 KHAJA HUSSAIN, AGED 34 YEARS, S/O.SULAIMAN, KODAKKADAN VEEDU, KALLADIPPOTTA P.O., MARUTHUR, PATTAMBI, PALAKKAD, PIN - 679313
- 3 MUHAMMED HAKKEEM, AGED 25 YEARS
S/O.MOIDEENKUTTY, KUNNUMPURAM HOUSE, KONDOORKARA P.O.,
PATTAMBI, PALAKKAD, PIN - 679313

BY ADVS.
E.A.HARIS
RENJITH B.MARAR
P.P.HARRIS

RESPONDENTS/RESPONDENTS/COMPLAINANT:

- 1 UNION OF INDIA, REPRESENTED BY SUPERINTENDENT OF POLICE, NATIONAL INVESTIGATION AGENCY, KOCHI, PIN - 682020
- 2 INSPECTOR OF POLICE, NATIONAL INVESTIGATION AGENCY, NIA KOCHI UNIT, KOCHI, PIN - 682020

BY ADV SREENATH SASIDHARAN
SRI SASTHAMANGALAM S AJITHKUMAR (Sr.)

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 20.11.2024, ALONG WITH
CRL.A.1842/2024, THE COURT ON 29.11.2024 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

FRIDAY, THE 29TH DAY OF NOVEMBER 2024 / 8TH AGRAHAYANA, 1946

CRL.A NO. 1842 OF 2024

CRIME NO.2/2022 OF NATIONAL INVESTIGATION AGENCY KOCHI, Ernakulam

AGAINST THE ORDER DATED 31.08.2024 IN SC NO.2 OF 2023 OF SPECIAL

COURT FOR TRIAL OF NIA CASES, ERNAKULAM

APPELLANTS/PETITIONERS/ACCUSED 47, 48, 49, 55:

- 1 ABBAS, AGED 33 YEARS, S/O.RAZACK, 3/526, SANKUVARATHODU, KALPATHI, PALAKKAD DISTRICT, PIN - 682011
- 2 NOUSHAD T., AGED 39 YEARS, S/O.HANEEFA, 30/526, CHANDANAMKURISSI, NURANI, WEST YAKKARA, PALAKKAD, PIN - 678004
- 3 BASHEER T.E., AGED 44 YEARS, S/O.IBRAHIM, THOOMBIL HOUSE, ANDRAMKUNNU, KALLEKKAD P.O., PALAKKAD, PIN - 678006
- 4 AMEER ALI, AGED 37 YEARS, S/O.SAITHALAVI, SANTHIPURATH HOUSE, VILAYOOR, PATTAMBI, PALAKKAD, PIN - 679303

BY ADVS.
E.A.HARIS
RENJITH B.MARAR
P.P.HARRIS

RESPONDENTS/RESPONDENTS/COMPLAINANT:

- 1 UNION OF INDIA, REPRESENTED BY SUPERINTENDENT OF POLICE, NATIONAL INVESTIGATION AGENCY, KOCHI, PIN - 682020
- 2 INSPECTOR OF POLICE, NATIONAL INVESTIGATION AGENCY, NIA KOCHI UNIT, KOCHI, PIN - 682020

BY ADV SREENATH S

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 20.11.2024, ALONG WITH CRL.A.1840/2024, THE COURT ON 29.11.2024 DELIVERED THE FOLLOWING:



'CR'

J U D G M E N T

K. V. Jayakumar, J.

The appellants before us impugn the orders passed by the Special Court for the Trial of NIA Cases, Ernakulam, in S.C.No.02/2023/NIA/KOC, dismissing the bail application preferred by them under Section 439 of the Code of Criminal Procedure, by relying on the provisions of Section 43D (5) of the Unlawful Activities (Prevention) Act, 1967 [hereinafter referred to as the "UA (P) Act"].

2. Brief facts necessary for the consideration of these appeals are as follows:

On 16.04.2022, an RSS worker Srinivasan, was murdered at Melamuri Junction in Palakkad Town in Kerala, allegedly by members of the Popular Front of India [PFI] cadres. An FIR No.318/2022 dated 16.04.2022 was registered at Palakkad Town South Police Station under Sections 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w with 149 of the Indian Penal Code and Section 3(a)(b)(d) r/w with 7 of the Religious Institutions (Prevention of



Misuse) Act, 1988. Pursuant to the investigation conducted in the said case, 51 persons were arraigned as accused by the State and 44 among them were arrested. Thereafter, based on an order dated 16.09.2022 passed under Section 6(5) read with Section 8 of the National Investigation Agency Act, 2008 which in turn based itself on the information received by the Central Government that the office bearers and cadres of PFI and its affiliates in Kerala have conspired to instigate communal violence and radicalise its cadres to commit terrorist acts in the State of Kerala and various other parts of the country, lodged FIR No.RC-02/2022/NIA/KOC dated 19.09.2022 at the NIA Police Station, Kochi against the same accused, under Sections 120B and 153A of the IPC read with Sections 13, 18, 18B, 38 and 39 of the UA (P) Act. Subsequently, on 28.09.2022, the Central Government declared PFI as an unlawful Association.

3. NIA filed the respective charge sheets before the Special Court, and the appellants/accused preferred their applications under Section 439 of the Cr.PC seeking bail. The Special Court rejected their bail applications. These appeals are filed impugning the Orders of the Special Court rejecting their bail applications.



4. We have heard Sri.Renjith B. Marar, the learned counsel for the appellants/accused and the learned Senior Counsel Sri. Sasthamangalam S. Ajithkumar for the prosecution.

5. At the outset we note that certain other accused in the very same S.C.No.02/2023/NIA/KOC pending before the Special Court for the Trial of NIA Cases, Ernakulam, had moved this Court earlier challenging similar orders of dismissal of their bail applications by the Special Court. The said appeals were considered and disposed of by this Court vide common judgment dated 25.06.2024 in Crl.A.Nos.1441 and 1600 of 2023, 139, 619, 620, 623, and 628 of 2024. In the said common judgment, this Court had after a survey of the dictum laid down in **Kaushal Kishor v. State of U.P. and others** [(2023) 4 SCC1], **National Investigation Agency v. Zahoor Ahmad Shah Watali** - [2019 KHC 6384], **Thwaha Fasal and another v. Union of India and Another** - [2021 (6) KHC 228], **Union of India v. K.A. Najeeb** - [AIR 2021 SC 712], **Vernon v. State of Maharashtra** - [2023 KHC 6743], **Union of India v. Barakathullah** - [2024 KHC OnLine 6313], **Amar Singh Yadav and another v. Shanti Devi and Others**- [AIR 1987 Pat 191 (FB)]; UOI v. K.A. Najeeb - [(2021) 3 SCC 713]; **Shoma Kanti Sen v. State of**



Maharashtra - [2024 KHC 6182]; **Gurwinder Singh v. State of Punjab and another** – [(2024) SCC Online SC 109] culled out the essential principles that ought to be borne in mind while considering bail applications wherein there is an interplay of Section 439 of the Cr. P.C. and Section 43D (5) of the UA(P) Act. The guiding principles enumerated in the said judgment are as follows:

- That the liberty of a citizen is put at a very high pedestal in our country, and that treatment flows from the mandate of Article 21 of our Constitution;
- That the right to a fair trial is an integral aspect of the right under Article 21 and, save in exceptional circumstances where a statutory restriction operates if an accused is not enlarged on bail prior to his trial, he will not be in a position to effectively defend himself at the trial;
- That there is a cardinal presumption of innocence working in favour of an accused under our laws, which is dislodged only when the accused is found guilty of the offence beyond reasonable doubt, and convicted by a court of competent jurisdiction;
- That pre-trial detention is not meant to be punitive in its effect;
- That for determining whether there are reasonable grounds for believing that the accusation against the accused person is prima facie true, we have to peruse the materials forming part of the charge sheet against the accused, and record a broad finding, on the basis of broad probabilities, regarding the involvement of the accused in the commission of the stated offence or otherwise.
- That the degree of satisfaction to be recorded by the court, for opining that there are reasonable grounds for believing that the accusation is prima facie true, is lighter than the degree of satisfaction to be recorded for considering a discharge application or framing of charges in relation to offences under the UA (P) Act.



- That while examining the materials relied upon to support the allegation of terrorism-related offences against the accused, the court has to guard against ideological biases and false narratives that are prevalent in society. Further, while arriving at the belief that the accusation against the accused person is prima facie true, the court has to lean in favour of the fundamental rights of the accused and not in favour of the restrictions that can be imposed on those rights.

- That, in the event we find that there are no reasonable grounds for believing that the accusation against the accused person is prima facie true, a balancing has to be done between (i) the need to give the investigating authorities a reasonable time to complete their investigation after taking note of the stage of investigation and the materials obtained by them, (ii) the possibility of the accused tampering with the evidence or witnesses, and (iii) the likelihood of the accused fleeing from justice.

In the said judgment, this Court also summarized the major premises on which such bail applications are to be entertained and disposed of, which reads as follows:-

29. Proceeding thus, we feel that it is only in respect of those appellants/accused, against whom the material relied upon by the prosecution, when taken as a whole, crosses the threshold of 'general allegations coupled with overt acts that would clearly suggest the complicity of the accused in the offence with which he is charged', that we can say with any degree of conviction that there are reasonable grounds for believing that the accusation against that person is prima facie true. In other words, there has to be some corroborative material, other than mere statements of witnesses, to show that there were overt acts or acts of active participation by the appellants/accused, such as authorship of offensive documents and/or speeches, in order to deny them bail.



30. In the case of those persons against whom the material relied upon by the prosecution comprises only of statements of witnesses and/or documents and material objects that cannot be attributed to them in any manner, we will have to enlarge them on bail, more so because we find that the appellants/accused before us have suffered incarceration for over a year, and in many cases more than two years, and it is very unlikely that the trial in their cases will be concluded in the near future.

6. Thereafter Kaja Hussain @ Robot Kaja [A30], Jaleel P. [A66] and Shihab P @ Babu [A68] approached this Court and preferred Crl.Appeal Nos.1593/2024, 1198/2024 and 1591/2024 respectively, against the dismissal of their bail applications filed before the Special Court for Trial of NIA Cases, Ernakulam.

7. After a detailed consideration of the materials on record, this Court allowed Crl.Appeal No.1591/2024. This Court directed the Special Court to enlarge Shihab P @ Babu on bail with conditions.

8. However, the Division Bench of this Court has dismissed the Crl.Appeal Nos.1593/2024 and 1198/2024, rejecting the bail applications of Kaja Hussain @ Robot Kaja and Jaleel P respectively.

9. With the said normative guidance in mind, we now proceed to consider the sustainability of the Orders passed by the



Special Court rejecting the bail applications of the appellants in the backdrop of the charges and evidence mustered against each of the appellants/accused in these appeals. In the paragraphs that are to follow, we have narrated the charges levelled against each of the appellants/accused, the objections raised by the prosecution to the grant of bail to them, the material relied upon by the prosecution to justify their objection, and our reasons for the grant/denial of bail to them.

10. Crl.A.1840/2024 was preferred by Haneefa [A-34], aged 29 years, S/o.Muhammed, Kallekattil House, Maruthur P O, Pattambi, Palakkad, Khaja Hussain [A-35], Aged 34 years, S/o. Sulaiman, Kodakkadan Veedu, Kalladippotta P O, Maruthur, Pattambi, Palakkad and Muhammed Hakkeem [A-36], Aged 25 years, S/o.Moideenkutty, Kunnumpuram House, Kondoorkara P O, Pattambi, Palakkad.

11. Likewise, Crl.A.No.1842/2024 is preferred by Abbas [A-47], Aged 33 years, S/o.Razack, 3/526, Sankuvarathodu, Kalpathi, Palakkad, Naushad T [A-48], Aged 39 years, S/o.Haneefa, 30/526, Chandanamkurissi, Nurani, West Yakkara, Palakkad, Basheer T. E. [A-49], aged 44 years, S/o.Ibrahim, Thoombil House, Andramkunnu, Kallekkad P O, Palakkad and Ameer Ali [A-55], Aged



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37 years, S/o.Saithalavi, Santhipurath House, Vilayoor, Pattambi, Palakkad.

12. Now let us examine the charges levelled against each of the appellants/accused and the objections raised by the prosecution against them in both the criminal appeals.

Crl.Appeal No.1840/2024:

1. 1st appellant : Haneefa (A-34)

Charge:

a) That, the accused Haneefa (A-38), being a PFI Melepattambi Unit Secretary, knowingly and intentionally became a member of terrorist gang formed by PFI to commit terrorist act as a part of larger conspiracy hatched by PFI and its office bearers and cadres since last few years to enact their "India 2047" agenda of establishing Islamic Rule in India. Being a member of terrorist gang, he attended conspiracy meeting held at Nasar's (A-33's) Curtain Shop at Pattambi on 15th of April 2022 for committing terrorist act by murdering any available Hindu Leader with the intention of creating terror in the minds of the Hindu community and among public at large which resulted in the murder of Srinivasan on 16.04.2022 by PFI cadres. He along with Khaja Hussain (A-35), Hakkeem (A-39) and Abdul Nazar (A-41) dismantled the motorcycle which was used by Abdu Rahman (A-17) and Mohammed Mansoor (A-21) for commission of terrorist act, at the poultry farm managed by him and Khaja Hussain (A-35) and further concealed the parts of dismantled vehicle in the shop owned by A-36 and A-37 and destroyed the evidence with the help of A-35, A-36, A-41 and A-37. He also committed acts prejudicial to the maintenance of harmony between different religious groups and has disturbed the public tranquility in the State at large.

b) That, the accused Haneefa (A-34) along with 43 other co-accused were already charge sheeted by Kerala Police in



connected offence in Crime No. 318/2022 of Palakkad Town South Police Station under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988, wherein, the offence committed by Haneefa (A-34) in the said connected offence has been enumerated in detail in that charge-sheet.

c) Therefore, accused Haneefa (A-34) committed offences punishable under sections 153A of IPC and sections 13,18 & 20 of UA (P) Act along with additional offences under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988 as charge sheeted by the Kerala Police in connected offence in Crime No. 318/2022 of Palakkad Town South Police station.

Objection:

(a) Haneefa (A34) is the 1st appellant in Crl.A.No.1840/2024 is a member of the Terrorist gang formed by PFI, to commit terrorist act as part of larger conspiracy hatched by PFI and its office bearers and the cadres since last few years to enact their "India 2047" agenda of establishing Islamic Rule in India. Being a member of terrorist gang, in furtherance to the larger conspiracy, he attended conspiracy meetings at curtain shop of Nasar (A33) on 15th April 2022 for committing terrorist act by murdering any available Hindu leader with the intention of creating terror in the minds of Hindu community and among public at large. Haneefa (A34) is a cadre and Secretary of PFI Melepattambi Unit. The statements of Approver Aboobacker Siddik (A52), Cws 121, 122, 294, 771, 772, 773, 799 and 833 states that A34 Haneefa is an active cadre of PFI. The photos of Haneefa in PFI uniform was extracted from the mobile phone (MO-206) of the accused Abdul Nasser @ Nissar (A41) and video showing the participation of Haneefa in the PFI procession, recovered from the mobile phone (MO-206) of Rasheed K T (A56) Haneefa is an active cadre of PFI.



(b) In the statements of CW121, it is stated that there was a conspiracy meeting of Haneefa, 1st appellant and others in the shop of Nissar@Laden Nassar (A33) on 15.04.2022. CW122 stated that in the evening of 15.04.2022, the accused Haneefa along with Ali K @Ragam Ali, Khaja Hussaain (A35), Abdul Rasheed (A28), Muhammed Manzoor (A21), Ashraf (A32) Saheer K V (A60) and others had a secret meeting in the shop of Nissar @ Laden Nassar wherein he heard their conversation that “we have to retaliate”.

(c) Ext.128 scene mahazar is prepared at the conspiracy place on 15.04.2022. The CDR and IPDR Link report (document nos.231, 238, 239 and 1451) indicate the presence of Haneefa and others at the conspiracy place.

(d) The statement of Approver Muhammed Shajid (A37) states that as per the direction of Abdul Kabeer (A53) the motor cycle bearing registration No.KL-45-K-5724 which was used by the assailant Abdul Rahman @ Adru (A17) and Muhammed Mansoor (A21), which was initially concealed in the house of Abdul Nassar (A41) and further shifted to the poultry farm jointly run by Haneefa, 1st appellant and Khaja Hussain (A35). In that poultry farm the said vehicle was dismantled by Khaja Hussain, 2nd appellant and Muhammed Hakkeem (A36) the 3rd appellant and others and further shifted it to the scrap shop run by Muhammed Hakkeem (A36) and the Approver Muhammed Shajid (A37).

(e) Ext.D96 is the scene mahazar of the poultry farm run by Haneefa and Khaja Hussain, prepared as per the disclosure statement of Haneefa.

(f) The FSL report (D1467) would show that an oil swab was recovered from the place of occurrence wherein a motor cycle was dismantled would confirm that the said oil is engine oil. Some parts of the motor cycle were also recovered from the poultry farm (MO-88 to MO-90) as per the disclosure statement of the A34 Haneefa 1st appellant herein.



(g) Haneefa (A34) has concealed the number plates of dismantled vehicle and caused the destruction of evidence. As per Ext.D92 recovery mahazar, five number plates (MO-46 to MO-50) including the number plates of motor cycle bearing registration No.KL-45-K-5724 were recovered from the waste pit inside the poultry farm based on the disclosure statement of Haneefa.

(h) CWs-95 to 98 stated that Haneefa and Khaja Hussain are the owners of the poultry farm. They would also state about the recovery of number plates from the waste pit at the instance of Haneefa.

(i) As per D-538 recovery mahazar, MO-240 cutter which was used for dismantling the motor cycle was recovered as per the disclosure statement of Muhammed Hakkeem, the 3rd appellant.

(j) As per D.93 recovery mahazar, 16 parts of dismantled motor cycle (MO-51 to MO-66) were recovered from the scrap shop of Muhammed Hakkeem (A36) and Muhammed Shajid (A37) based on the disclosure statement of Khaja Hussain (A35) the 2nd appellant.

(k) As per D-99 seizure mahazar, the goods autorikshaw owned by Khaja Hussain (A35) which was used for transporting the dismantled parts of the motor cycle was recovered as per the disclosure statement of Khaja Hussain. CW32 and 33 gave statements that they identified the number plates of the motor cycle which was used by the assailant. CW1, 3 and 5 stated that they have seen the assailant Abdul Rahman @ Abdru (A17) came to the scene of occurrence in a motor cycle bearing registration No.KL-45-K-5724.

2. 2nd appellant: **Khaja Hussain (A-35)**

Charge:

a) That, the accused Khaja Hussain (A-35) being an active cadre of PFI, knowingly and intentionally became a member of terrorist gang formed by PFI to commit terrorist act as a part



of larger conspiracy hatched by PFI and its office bearers and cadres since last few years to enact their "India 2047" agenda of establishing Islamic Rule in India. Being a member of terrorist gang, he attended conspiracy meeting held at Nasar's (A-33's) Curtain Shop at Pattambi on 15th of April 2022 for committing terrorist act by murdering any available Hindu Leader with the intention of creating terror in the minds of the Hindu community and among public at large which resulted in the murder of Srinivasan on 16.04.2022 by PFI cadres. He along with Haneefa (A-34), Hakeem (A-36), Abdul Nazar (A-41) dismantled the motorcycle which was used by Abdu Rahman (A-17) and Mohammed Mansoor (A-21) for commission of terrorist act, at the poultry farm managed by him and Haneefa (A-34) and further concealed the parts of dismantled vehicle in the shop owned by Muhammed Hakeem (A-36) and Mohammed Shajid (A-37) and destroyed the evidence with the help of A-35, A-36, A-41 and A-37. He also committed acts prejudicial to the maintenance of harmony between different religious groups and has disturbed the public tranquility in the State at large.

b) That, the accused Khaja Hussain (A-35) along with 43 other co-accused were already charge sheeted by Kerala Police in connected offence in Crime No. 318/2022 of Palakkad Town South Police Station under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988, wherein, the offence committed by Khaja Hussain (A-35) in the said connected offence has been enumerated in detail in that charge-sheet.

c) Therefore, accused Khaja Hussain (A-35) committed offences punishable under sections 153A of IPC and sections 13,18 & 20 of UA (P) Act along with additional offences under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988 as charge sheeted by the Kerala Police in connected offence in Crime No. 318/2022 of



Palakkad Town South Police station.

Objection:

(a) Khaja Hussain (A35) is the 2nd appellant in Crl.A.No.1840/2024 is a member of the Terrorist gang formed by PFI, to commit terrorist act as part of larger conspiracy hatched by PFI and its office bearers and the cadres since last few years to enact their "India 2047" agenda of establishing Islamic Rule in India. Being a member of terrorist gang, in furtherance to the larger conspiracy, he attended conspiracy meetings at curtain shop of Nasar (A33) on 15th April 2022 for committing terrorist act by murdering any available Hindu leader with the intention of creating terror in the minds of Hindu community and among public at large. Khaja Hussain (A35) is a cadre of PFI Melepattambi Unit. The statements of Approver Aboobacker Siddik (A52), Cws 121, 122, 294, 771, 772, 773, 799 and 833 states that Khaja Hussain (A35) is an active cadre of PFI.

(b) In the statements of CW121, it is stated that there was a conspiracy meeting of Khaja Hussain, 2nd appellant and others in the shop of Nissar@Laden Nassar (A33) on 15.04.2022. CW122 stated that in the evening of 15.04.2022, the accused Khaja Hussain along with Ali K @Ragam Ali, Haneefa (A34), Abdul Rasheed (A28), Muhammed Manzoor (A21), Ashraf (A32) Saheer K V (A60) and others had a secret meeting in the shop of Nissar @ Laden Nassar wherein he heard their conversation that "we have to retaliate".

(c) Ext.128 scene mahazar is prepared at the conspiracy place on 15.04.2022. The CDR and IPDR Link report (document nos.231, 238, 239 and 1451) indicate the presence of Khaja Hussain and others at the conspiracy place.

(d) The statement of Approver Muhammed Shajid (A37) states that as per the direction of Abdul Kabeer (A53) the motor cycle bearing registration No.KL-45-K-5724 which was used by the assailant Abdul Rahman @ Adru (A17)



and Muhammed Mansoor (A21), which was initially concealed in the house of Abdul Nassar (A41) and further shifted to the poultry farm jointly run by Haneefa, 1st appellant and Khaja Hussain (A35). In that poultry farm the said vehicle was dismantled by Khaja Hussain, 2nd appellant and Muhammed Hakkeem (A36) the 3rd appellant and others and further shifted it to the scrap shop run by Muhammed Hakkeem (A36) and the Approver Muhammed Shajid (A37).

(e) Ext.D96 is the scene mahazar of the poultry farm run by Haneefa and Khaja Hussain, prepared as per the disclosure statement of Haneefa.

(f) The FSL report (D1467) would show that an oil swab was recovered from the place of occurrence wherein a motor cycle was dismantled would confirm that the said oil is engine oil. Some parts of the motor cycle were also recovered from the poultry farm (MO-88 to MO-90) as per the disclosure statement of the A34 Haneefa 1st appellant herein.

(g) CW-95 to 98 stated that Khaja Hussain and Haneefa are the owners of the poultry farm. They would also state about the recovery of number plates from the waste pit at the instance of Haneefa.

(h) As per D-538 recovery mahazar, MO-240 cutter which was used for dismantling the motor cycle was recovered as per the disclosure statement of Muhammed Hakkeem the 3rd appellant.

(i) As per D.93 recovery mahazar, 16 parts of dismantled motor cycle (MO-51 to MO-66) were recovered from the scrap shop of Muhammed Hakkeem (A36) and Muhammed Shajid (A37) based on the disclosure statement of Khaja Hussain (A35) the 2nd appellant.

(j) As per D-99 seizure mahazar the goods autorikshaw owned by Khaja Hussain (A35) which was used for transporting the dismantled parts of the motor cycle was



recovered as per the disclosure statement of Khaja Hussain. CW32 and 33 gave statements that they identified the number plates of the motor cycle which was used by the assailant. CW.1, 3 and 5 stated that they have seen the assailant Abdul Rahman @ Abdru (A17) came to the scene of occurrence in a motor cycle bearing registration No.KL-45-K-5724.

3. 3rd appellant : Muhammed Hakkeem (A-36)
Charge:

a) That, the accused Muhammed Hakkeem (A-36) being an active cadre of PFI Kondurkkara Unit and SDPI Kondurkkara Branch Vice President, knowingly and intentionally became a member of terrorist gang formed by PFI to commit terrorist act as a part of larger conspiracy hatched by PFI and its office bearers and cadres since last few years to enact their "India 2047" agenda of establishing Islamic Rule in India. He attended Physical and Arms training organised by PFI. Being a member of terrorist gang, he attended the conspiracy meeting at Palakkad on 16th of April 2022 for committing terrorist act by murdering any available Hindu Leader with the intention of creating terror in the minds of the Hindu community and among public at large which resulted in the murder of Srinivasan on 16.04.2022 by PFI cadres. He along with Haneefa (A-34), Khaja Hussain (A-35), Abdul Nazar (A-41) dismantled the motorcycle which was used by Abdu Rahman (A-17) and Mohammed Mansoor (A-21) for commission of terrorist act, at the poultry farm managed by Khaja Hussain (A-35) and Haneefa (A-34) and further concealed the parts of dismantled vehicle in the shop owned by him and Mohammed Shajid (A- 37) and destroyed the evidence with the help of A-35, A-36, A-41 and A-37. He committed acts prejudicial to the maintenance of harmony between different religious groups and has disturbed the public tranquility in the State at large.

b) Therefore, accused Muhammed Hakkeem (A-36) committed offences punishable under sections 120B, 34, 153A,



201 & 120B r/w 302 of IPC and sections 13,18 & 20 of UA (P) Act.

Objection:

(a) Muhammed Hakkeem (A-36) is the 3rd appellant in Crl.A.No.1840/2024 is a member of the Terrorist gang formed by PFI, to commit terrorist act as part of larger conspiracy hatched by PFI and its office bearers and the cadres since last few years to enact their "India 2047" agenda of establishing Islamic Rule in India.

(b) CWs.121, 122, 771, 772, 773 states that A-36 Muhammed Hakkeem, the 3rd appellant is a cadre of PFI. So also, the statements of approver Aboobacker (A52), Cws 121, 122, 294, 771, 772, 773, 799 and 833 states that Muhammed Hakkeem (A-36) is an active cadre of PFI. PFI uniforms, flag etc (MO-244 to MO-266) seized from Valluvanad house as per the disclosure of Muhammed Hakkeem (A36), the statement of Muhammed Shajid (A37) would further show that Muhammed Hakkeem attended arms training imparted by PFI at Valluvanad house, Vadanamkurussi, Palakkad. D-540 scene mahazar was prepared at the Valluvanad house based on the disclosure of Muhammed Hakkeem. The PFI uniforms, flags etc were also recovered from the said Valluvanad house.

(c) The protected witness 13 and 22 state that they had seen Muhammed Hakkeem along with the assailants Ummar T (A18), Firoz @ Thambi (A20), Bilal (A-22), Ansar K P (A-23) and accused Jamsheer (A-25), Kajahussain (A-26), Jishad (A-29) and other PFI leaders on 16.04.2022 at about 12 hrs (ie just before the murder of Srinivasan) at vacant land near District Hospital, Palakkad, where the accused conspired to commit terrorist act of murder of Srinivasan.

(d) The statement of approver Aboobacker Sidik (A-52) states that 'the plan was to kill anyone. The decision to kill Srinivasan was taken near hospital premises and behind the hospital'. Besides Muhammed Hakkeem (A36), Muhammed Riswan @ Riswan (A-42) and other accused



were also the part of the conspiracy. Based on the disclosure of Muhammed Riswan @ Riswan scene mahazar was prepared on 22.04.2022 at a vacant land near District Hospital, Palakkad. CDR/IPDR location proves the presence of accused Muhammed Hakkeem (A36) at conspiracy place at Palakkad on 16.04.2022.

(e) Ext.128 scene mahazar is prepared at the conspiracy place on 15.04.2022. The CDR and IPDR Link report (document nos.231, 238, 239 and 1451) indicate the presence of Mohammed Hakkeem and others at the conspiracy place.

(f) The statement of Approver Muhammed Shajid (A37) states that as per the direction of Abdul Kabeer (A53) the motor cycle bearing registration No.KL-45-K-5724 which was used by the assailant Abdul Rahman @ Adru (A17) and Muhammed Mansoor (A21), which was initially concealed in the house of Abdul Nassar (A41) and further shifted to the poultry farm jointly run by Haneefa, 1st appellant and Khaja Hussain (A35). In that poultry farm the said vehicle was dismantled by Kaja Hussain, 2nd appellant and Muhammed Hakkeem (A36) the 3rd appellant and others and further shifted it to the scrap shop run by Muhammed Hakkeem (A36) and the Approver Muhammed Shajid (A37).

(g) Ext.D96 is the scene mahazar of the poultry farm run by Haneefa and Kajahussain, prepared as per the disclosure statement of Haneefa.

(h) The FSL report (D1467) would show that an oil swab was recovered from the place of occurrence wherein a motor cycle was dismantled would confirm that the said oil is engine oil. Some parts of the motor cycle were also recovered from the poultry farm (MO88 to MO90) as per the disclosure statement of the A34 Haneefa 1st appellant herein.

(i) As per D-538 recovery mahazar, MO-240 cutter which was used for dismantling the motor cycle was



recovered as per the disclosure statement of Muhammed Hakkeem the 3rd appellant.

(j) As per D.93 recovery mahazar, 16 parts of dismantled motor cycle (MO-51 to MO-66) were recovered from the scrap shop of Muhammed Hakkeem (A36) and Muhammed Shajid (A37) based on the disclosure statement of Khaja Hussain (A35) the 2nd appellant.

Crl.Appeal No.1842/2024

13. Accused Nos.47, 48, 49 and 55 in S.T.No.2/2023 have preferred this Criminal Appeal, impugning the dismissal of their bail application by the Special Court for Trial of NIA Cases, Ernakulam.

1. **1st appellant Abbas (A-47)**

Charge

a) That, accused Abbas (A47) being an active cadre of PFI and SDPI Palakkad Municipal Secretary, knowingly and intentionally became a member of terrorist gang formed by PFI to commit terrorist act as a part of larger conspiracy hatched by PFI and its office bearers and cadres since last few years to enact their "India 2047" agenda of establishing Islamic Rule in India. In furtherance to larger conspiracy, he attended arms training conducted by PFI as a preparation for committing terrorist act. Being a member of terrorist gang, he attended the conspiracy meetings held at Palakkad on 15th and 16th of April 2022 for committing terrorist act by murdering any available Hindu Leader with the intention of creating terror in the minds of the Hindu community and among public at large which resulted in the murder of



Srinivasan on 16.04.2022 by PFI cadres. In furtherance to the conspiracy, he arranged Motorcycle bearing Regn No. KL-09-AQ-713 and provided to Ansar (A-23) and Ashraf (A-32) for conducting recce in the night of 15.4.2022 to locate the target for committing terrorist act. He further provided the said vehicle to Riyasudheen (A-26) and Saheer (A-27) for assisting assailants on 16.4.2022, for committing terrorist act of murdering Srinivasan.

b) That, the accused Abbas (A-47) along with 43 other co-accused were already charge sheeted by Kerala Police in connected offence in Crime No. 318/2022 of Palakkad Town South Police Station under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988, wherein, the offence committed by Abbas (A-47) in the said connected offence has been enumerated in detail in that charge-sheet.

c) Therefore, accused Abbas (A-47) committed offences under sections 153A of IPC and sections 13,18 & punishable UA (P) Act along with additional offences under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988 as charge sheeted by the Kerala Police in connected offence in Crime No. 318/2022 of Palakkad Town South Police station.

Objection:

(a) Abbas (A-47) was a part of larger conspiracy to overthrow democracy in India and to establish Islamic Rule as per the agenda India 2047. The FIR in Crime No.827/2022 of Pulwarishariff Police Station states about 'India 2047 vision' by imparting arms training to recruited individuals. The statements of protected witnesses



2, 14, 16 would also speak about 'India 2047 vision'. The video clips recovered from the mobile phone of Muhammed Mubarak (A15) speaks about 'India 2047 agenda'.

(b) The statements of protected witness 1, 2, 3, 4, 8, 10, 11, 12, 14, 15, 16, 17, 21, 34 and CW 636 states about arms training being imparted with and attended by PFI cadres and leaders at various training centres of PFI. The statements of the approver Muhammed Sadik (A-16) would indicate that arms training was imparted by PFI to its cadres. The protected document nos.17 to 24, 26, 27, 29 and 31 and MO-583 pendrive contained the hit list of various persons of other community. The protected document no.13 contains the hit list of 197 persons which was seized and as per the disclosure statement of Muhammed Sadik (A-17 now approver). The protected document nos.32, 33, 34 also contains the hit list of 35 persons seized through the house search of the said Muhammed Sadik.

(c) The statements of approver Aboobacker Sidik (A-52) speak about 'India 2047 vision', reporter wing in PFI and its role about arms training, training of making country bombs, training of attacking vital parts of body by practising on statues, skeleton etc. at various training centre of PFI. The statements would also speak about the aim to create terror in the minds of public by murdering Srinivasan.

(d) The statements of approver Muhammed Shajid (A-37) speaks about the arms training attended by the assailants and co-accused in the underground of Falah Mosque, Chunnamputhara and at Valluvanad house at Palakkad.

(e) The statements of approver Rishil (A-28) speaks about the reporter wing in PFI and its role.



(f) The document Nos.242 to 245, 246, 250, 252 to 254 contain the hit list of about 240 persons and document no.246 contains the route map of a temple at Edappal. Document no.251 contains the photo of a main witness in Crime No.618/2017 of Tirur Police Station (Bipin murder case) which was seized as per D-240 seizure mahazar.

(g) The protected documents 1 and 2 contains the hit list seized from Periyar valley Campus which is an arms training centre of PFI which has been attached by the NIA. The hit list contains the details of 5 targetted persons, including one former District Judge of Kerala.

(h) The protected documents 40 to 43 consists of hit list about 500 persons seized as per D-1345 mahazar.

(i) The protected witnesses 19, 20, 22, 25, 39, 47 and Cws.605 to 608 speaks about the terror created by PFI in general public by committing murder of Srinivasan.

(j) The statement of approver Aboobacker Sidik (A52), the statement of protected witnesses-17, CW 783, 784, 786, 797, 798, 814, 835 states that accused Abbas (A-47) is an active cadre of PFI. The video recovered from the mobile phone (MO-72) of Sadam Hussain (A-46) shows the participation in a procession of PFI by Abbas (A-47) proved that he is an active cadre of PFI. The statements of protected witness-17 states that he had seen Abbas (A-47) along with assailants Adu@ Abdul Rahman (A-17), Abdul Khader @ Iqbal (A-19) and other accused Jamsheer (A-25), Kaja Hussain @ Robot Kaja (A-26), Naushad (A-48), Basheer (A-49) and others undergoing physical training and arms training at Falah Masjid.



(k) D-347 scene mahazar which was prepared as per the disclosure of accused Basheer (A-49) would show that arms training was being conducted at Falah Masjid at Palakkad, wherein Basheer (A-49), Abbas (A-47) and Naushad (A-48) and other co-accused attended.

(l) CW-835 stated that he has seen Abbas (A-47) along with assailants Adru @ Abdul Rahman (A-17), Firoz @ Thambi (A-20), Muhamed Bilal (A-22) and other accused Asfak @ Unni (A-43), Basheer (A-49) were also took part in the arms training of PFI conducted at Falah Masjid. He would also say that Jamsheer (A-25), Fayas (A-40) and Basheer T E (A-49, 3rd appellant) imparted arms training at Falah Masjid, Palakkad.

(m) CW-814 stated that he has seen Abbas (A-47) taking part in the conspiracy held near Government Hospital Mortuary gate in the night of 15th April 2022 along with assailants Adru @ Adbul Rahman, Ummar @ Manu, Abdul Khader @ Iqbal, Muhammed Mansoor, Muhammed Bilal, Ansar K P, Riyasudheen @ Riyas, Saheer K V and other accused, including Naushad (A-48), Basheer (A-49), Muhammedali, Ameer Ali (A-55) and other leaders and cadres of PFI.

(n) D-16 is the scene mahazar prepared from the Khabrishtan wherein Abbas (A-47), assailants and others hatched a conspiracy and proceeded to conduct recce the target.

(o) The CDR location of Abbas (A-47) shows his presence at conspiracy place on 15.04.2022.

(p) The statement of CW-37 and protected witness 36 stated that they had seen Abbas (A-47) along with assailants Abdul Rahman @ Adru, Ummar T, Abdula Kader



@ Iqbal, Muhammed Mansoor, Bilal and accused Sahad, Jamsheer, Nishad, Naushad(A-48), Ameer Ali (A-55) and other PFI leaders at the place of conspiracy on 16.04.2022 (just before the murder of Srinivasan).

(q) The statement of approver Aboobacker Sidik (A-52) stated that 'the plan was to kill anyone. The decision to kill Srinivasan was taken near hospital premises and behind the hospital'. He further say that along with Abbas (A-47), Muhammed Riswan @ Riswan (A-42) and other accused were took part in the conspiracy. Based on the disclosure of Muhammed Riswan @ Riswan, scene mahazar (D-13) was prepared at a vacant land near District Hospital Palakkad. The CDR location of Abbas (A-47) shows his presence at conspiracy place on 16.04.2022.

(r) CW-814 stated that the accused Abbas (A-47) had arranged motorcycle bearing registration No.KL-09-AQ-713 to the assailants. The said vehicle was used by the assailants Ansar (A-23) and Ashraf (A-32) for conducting the recce in the night of 15.04.2022 to locate the target for committing the terrorist act. Abbas (A-47) has provided the said vehicle to assailants Riyasudheen (A24) and Saheer (A-60) for assisting assailants on 16.04.2022 for committing the murder of Srinivasan. The said vehicle was seized as per D-15 scene mahazar and on the basis of the disclosure statement of Riyasudheen (A-24).

2. 2nd appellant Naushad T (A-48)

Charge

a) That, the accused Naushad T (A-48) being an active cadre of PFI, knowingly and intentionally became a member of terrorist gang formed by PFI to commit terrorist act as a part of larger conspiracy hatched by PFI and its office bearers and cadres since last few years to enact their "India 2047" agenda of establishing Islamic Rule in India. Being a member of terrorist gang, he attended the



conspiracy meetings held at Palakkad on 15th and 16th of April 2022 for committing terrorist act by murdering any available Hindu Leader with the intention of creating terror in the minds of the Hindu community and among public at large which resulted in the murder of Srinivasan on 16.04.2022 by PFI cadres. In furtherance to the conspiracy, he along with Basheer T E (A-49) conducted recce of targets on 15.04.2022 for committing terrorist act. He concealed his mobile phone and that of A-49 after commission of terrorist act. He committed acts prejudicial to the maintenance of harmony between different religious groups and has disturbed the public tranquillity in the State at large.

b) That, the accused Naushad T (A-48) along with 43 other co-accused were already charge sheeted by Kerala Police in connected offence in Crime No. 318/2022 of Palakkad Town South Police Station under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988, wherein, the offence committed by Naushad T (A-48) in the said connected offence has been enumerated in detail in that charge-sheet.

c) Therefore, accused Naushad T (A-48) committed offences punishable under sections 153A of IPC and sections 13,18 & 20 of UA (P) Act along with additional offences under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988 as charge sheeted by the Kerala Police in connected offence in Crime No. 318/2022 of Palakkad Town South Police station.

Objection:

(a) The statement of approver Aboobacker Sidik (A52), the statement of protected witnesses-17, CW 783, 784, 786, 797, 798, 814, 835 stated



that accused Naushad(A-48) is an active cadre of PFI. The statements of protected witness -17 stated that he had seen Naushad (A-48) along with assailants Adru@ Abdul Rahman (A-17), Abdul Khader @ Iqbal (A-19) and other accused Jamsheer (A-25), Kaja Hussain @ Robot Kaja (A-26), Naushad(A-48), Basheer (A-49) and others undergoing physical training and arms training at Falah Masjid.

(b) D-347 scene mahazar which was prepared as per the disclosure of accused Basheer (A-49) would show that arms training was being conducted at Falah Masjid at Palakkad, wherein Basheer (A-49), Abbas (A-47) and Naushad (A-48) and other co-accused attended.

(c) CW-814 and protected witnesses 36 and 37 stated that they have seen Naushad (A-48) taking part in the conspiracy held near Government Hospital, Mortuary gate in the night of 15th April 2022 along with assailants Adru @ Adbul Rahman, Ummar @ Manu, Abdul Khader @ Iqbal, Muhammed Mansoor, Muhammed Bilal, Ansar K P, Riyasudheen @ Riyas, Saheer K V and other accused, including Naushad(A-48), Basheer (A-49), Muhammedali, Ameer Ali (A-55) and other leaders and cadres of PFI.

(d) D-16 is the scene mahazar prepared from the Khabrishtan wherein Naushad (A-48), assailants and others hatched a conspiracy and proceeded to conduct recce the target.

(e) The CDR location of Naushad(A-48) shows his presence at conspiracy place on 15.04.2022.

(f) The statement of approver Aboobacker Sidik (A-52) and Rishil (A-28) would clearly



state that the accused Naushad conducted a recce of the target to eliminate them in the night of 15.04.2022.

(g) The statement of CW-329 indicates that Naushad (A-48) used motor cycle bearing registration no. KL-14-7467 to reach the conspiracy place. The said motor cycle (MO-195) is seized as per the disclosure statement made by him.

(h) The statement of protected witnesses 36 and 37 would speak about the presence of Naushad (A-48) along with assailants and other accused at the conspiracy place near Khabrishtan at Palakkad in the night of 15.04.2022 from where they left for conducting recce the target to commit terrorist act.

(i) The statement of CW-203 speaks about the suspicious moment of the accused in motor cycles in front of Kinfra at Lakkidi. As per D-26 seizure mahazar, the motor cycle bearing registration no.KL-9-AK-6726 (MO-120) which was used by the accused Naushad and Basheer (A-49) during the night of 15.04.2022, as per the disclosure statement of the assailants Abdul Khader @ Iqbal (A-19). The said motor cycle was again used by the assailant Abdul Khader.

(j) Scene mahazars D-336 & D-346 were prepared as per the disclosure statement of Naushad and Basheer respectively, from the places where they conducted the recce the target. The said places were also pointed out by the accused Saheer (A-60). CW-154 and CW-157 states that RSS/BJP workers are residing at the place where the accused conducted recce.

(k) The CCTV footages seized from Bismillah Motors, Pathiripala and from Kinfra, Lakkidi on



25.06.2022 shows the movement of vehicles in which the accused Naushad and Basheer were travelled to recce the targets. The statements of CW37 and CW38 protected witnesses 22 and 36 would show that they had seen Naushad along with the assailants such as Abdul Rahman @ Adru (A-17), Ummar T (A-18), Abdul Khader, Muhammed Mansoor, Bilal, Ameer Ali and the other leaders of PFI on 16.04.2022 at noon (Just before the murder of Srinivasan) at a vacant land near the District Hospital, Palakkad wherein the accused conspired to commit the terrorist act of the murder of Srinivasan on 16.04.2022.

(l) The statement of approver Aboobacker Sidik (A-52) stated that 'the plan was to kill anyone. The decision to kill Srinivasan was taken near hospital premises and behind the hospital'. He further say that along with Naushad (A-48), Muhammed Riswan @ Riswan (A-42) and other accused were took part in the conspiracy.

(m) The location of the accused Naushad (D-566, D-522, D-1451, D-1541, D-1563 and D-1564) shows the presence of the accused at the place of conspiracy on 16.04.2022.

(n) The mobile phones concealed by Ashraf (A-44) was recovered as per D-359 seizure mahazar based on the disclosure statement of Naushad.

3. 3rd appellant : **Basheer T E** (A-49)

Charge

a) That, the accused Basheer T E (A-54) being an active cadre of PFI, knowingly and intentionally became a member of terrorist gang formed by PFI to commit terrorist act as a part of larger conspiracy hatched



by PFI and its office bearers and cadres since last few years to enact their "India 2047" agenda of establishing Islamic Rule in India. In furtherance to larger conspiracy, he attended arms training and also imparted arms training to the cadres of PFI as a preparation to commit terrorist act. Being a member of terrorist gang, he attended the conspiracy meetings held at Palakkad on 15th and 16th of April 2022 for committing terrorist act by murdering any available Hindu Leader with the intention of creating terror in the minds of the Hindu community and among public at large which resulted in the murder of Srinivasan on 16.04.2022 by PFI cadres. In furtherance to the conspiracy, he along with Naushad T (A-48) conducted recce of targets on 15.04.2022 for committing terrorist act. He committed acts prejudicial to the maintenance of harmony between different religious groups and has disturbed the public tranquillity in the State at large.

b) That, the accused Basheer T E (A-48) along with 43 other co-accused were already charge sheeted by Kerala Police in connected offence in Crime No. 318/2022 of Palakkad Town South Police Station under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988, wherein, the offence committed by Basheer TE (A-49) in the said connected offence has been enumerated in detail in that charge-sheet.

c) Therefore, accused Basheer T E (A-49) committed offences punishable under sections 153A of IPC and sections 13,18 & 20 of UA (P) Act along with additional offences under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988 as charge sheeted by the Kerala Police in connected offence in Crime No. 318/2022 of Palakkad Town South Police station.

**Objection:**

(a) The statement of approver Aboobacker Sidik (A52), the statement of protected witnesses-17, CW 784, 786, 797, 798, 800, 835 stated that accused Basheer T E (A-49) is an active cadre of PFI. The video recovered from the mobile phone (MO-99) of Firoz @ Thambi (A-20) shows the participation in a procession of PFI which would show that Basheer is an active cadre of PFI.

(b) D-347 scene mahazar which was prepared as per the disclosure of accused Basheer (A-49) would show that arms training was being conducted at Falah Masjid at Palakkad, wherein Basheer (A-49), Abbas (A-47) and Naushad(A-48) and other co-accused attended.

(c) CW-835 stated that Basheer is the master trainer of PFI. He imparted training to the assailants Adu @ Abdul Rahman, Firoz @ Thambi, Muhamed Bilal, and others.

(d) CW-814 and protected witnesses 36 and 37 stated that he has seen Basheer (A-49) taking part in the conspiracy held near Government Hospital Mortuary gate in the night of 15th April 2022 along with assailants Adu @ Abdul Rahman, Ummar @ Manu, Abdul Khader @ Iqbal, Muhammed Mansoor, Muhammed Bilal, Ansar K P, Riyasudheen @ Riyas, Saheer K V and other accused, including Naushad(A-48), Abbas (A47), Muhammedali, Ameer Ali (A-55) and other leaders and cadres of PFI.

(e) D-16 is the scene mahazar prepared from the Khabrishtan wherein Basheer (A-49), assailants and others hatched a conspiracy and proceeded to conduct recce the target.



(f) The CDR location of Basheer (A-49) shows his presence at conspiracy place on 15.04.2022.

(g) The statement of protected witness -17 is that he had seen Basheer (A-49) along with the assailants Adru @ Abdul Rahman, Abdul Khader @ Iqbal, Jamsheer, Kajahussain, Abbas, Naushad and others undergoing physical training at Falah Masjid, Palakkad.

(h) The protected witnesses 37, 38 and CW814 has seen Basheer along with assailants at the place of conspiracy near Khabarsthan near District Hospital, Palakkad in the night of 15.04.2022.

(i) CW-203 speaks about suspicious movement of the accused in motor cycles in front of Kinfra at Lakkidi. D-26 seizure mahazar was prepared as per the disclosure statement of assailant Abdul Khader, through which KL-9-Ak-6726 motor cycle was seized. Basheer has used the said motor cycle for recce during the night on 15.04.2022.

(j) The scene mahazars D-336 & D-346 were prepared as per the disclosure statement of Basheer T E from the place wherein he conducted recce of the target. CW-154 and CW-157 states that the RSS/BJP workers were residing at the place where accused conducted recce.

(k) The CCTV footages seized from Bismillah Motors, Pathiripala and From Kinfra, Lakkidi on 25.06.2022 shows the movement of vehicles in which the accused Naushad and Basheer were travelled to recce the targets. The statements of CW37 and CW38 protected witnesses 22 and 36 would show that they had seen Naushad along with the assailants such as Abdul Rahman @ Adru (A-17), Ummar T (A-18), Abdul Khader, Muhammed Mansoor, Bilal, Ameer Ali and the other



leaders of PFI on 16.04.2022 at noon (Just before the murder of Srinivasan) at a vacant land near the District Hospital, Palakkad wherein the accused conspired to commit the terrorist act of the murder of Srinivasan on 16.04.2022.

(l) The statement of approver Aboobacker Sidik (A-52) would show that Basheer has conducted recce the target to eliminate them in the night of 15.04.2022.

(m) The statements of CWs.37 and 38 and protected witness 22 would show that they had seen Basheer along with the assailant Abdul Rahman @ Adu, Abdul Khader, Jamsheer, Ameer Ali and others on 16.04.2022 at noon, at the place of conspiracy.

(n) The statement of approver Aboobacker Siddik (A-52) stated that 'the plan was to kill anyone. The decision to kill Srinivasan was taken near hospital premises and behind the hospital'. He further say that along with Basheer (A-49), Muhammed Riswan @ Riswan (A-42) and other accused were took part in the conspiracy.

(o) The CDR location of the accused Basheer would show his presence at the place of conspiracy on 16.04.2022.

4. 4th appellant : **Ameer Ali (A-55)**

Charge

a) That, the accused Ameer Ali (A-55) being an active cadre of PFI and SDPI State terrorist gang member, knowingly and intentionally became a member of terrorist gang formed by PFI to commit terrorist act as a



part of larger conspiracy hatched by PFI and its office bearers and cadres since last few years to enact their "India 2047" agenda of establishing Islamic Rule in India. In furtherance to the larger conspiracy, being a member of terrorist gang, he attended the conspiracy meeting held in the residence of Rasheed KT (A-56), conspiracy meeting at PFI Office, Puthuppallitheru, Palakkad on 15th April, 2022 and also at other places at Palakkad on 15th and 16th of April 2022 for committing terrorist act by murdering any available Hindu Leader with the intention of creating terror in the minds of the Hindu community and among public at large which resulted in the murder of Srinivasan on 16.04.2022 by PFI cadres. He conspired with co-accused Abdul Rasheed (A-28), Haneefa (A-34), Khaja Hussain (A-35), Abdul Hakkeem (A-36), and others for destroying evidence in the case after commission of the terrorist act. He committed acts prejudicial to the maintenance of harmony between different religious groups and has disturbed the public tranquillity in the State at large.

b) That, the accused Ameer Ali (A-55) along with 43 other co-accused were already charge sheeted by Kerala Police in connected offence in Crime No. 318/2022 of Palakkad Town South Police Station under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988, wherein, the offence committed by Ameer Ali (A-55) in the said connected offence has been enumerated in detail in that charge-sheet.

c) Therefore, accused Ameer Ali (A-55) committed offences punishable under sections 153A of IPC and sections 13,18 & 20 of UA (P) Act along with additional offences under section 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988 as charge



sheeted by the Kerala Police in connected offence in Crime No. 318/2022 of Palakkad Town South Police station.

Objection:

(a) The statement of approver Aboobacker Sidik (A52), the statement of protected witnesses-17, CW 784, 786, 797, 798, 799, 800, 801, 803, 808 stated that accused Ameer Ali (A-55) is an active cadre of PFI.

(b) Several documents, notices, magazines etc were seized from his house search which *inter alia* includes controversial question paper which led to the 'hand chopping case' (D-340) PFI notices (D-355) and PFI belt (MO-173). Various photographs of accused Ameer Ali were also seized wherein he has addressing the meetings conducted by PFI recovered from the memory card.

(c) The statement of protected witness-3 is that Ameer Ali and others had attended the arms training at Periyar Valley Campus imparted by the master trainer Mohamed Mubarak (A-15).

(d) The protected witness-35 stated that Ameer Ali took part in the conspiracy meeting held on 15.04.2022 along with Rasheed K T (A-56), Saidali (A-57) & Noushad M (A-58).

(e) The CDR/IPDR location of Ameer Ali shows his presence at the place of conspiracy on 15.04.2022.

(f) The statements of protected witnesses 23 and 24 is that one Usman contacted some



PFI leaders including Ameer Ali and they heard their discussion to place for an immediate retaliation against the other community. Usman told them that “all arrangements for identifying and eliminating Hindu leader has been made in the night itself. Our people will do it within 24 hours and can hear good news tomorrow’. Usman told the other PFI leaders that ‘Srinivasan’s murder is a warning to all other community who challenge PFI’.

(g) The statement of approver Aboobacker Sidik (A-52) states about the hidden agenda of PFI to establish Islamic rule, the role of ‘reporter wing’ is to collect details of the targets, the role of ‘PE wing’ is to impart physical and arms training and the role of ‘Hit squad/service wing’ is to execute the plan by eliminating the targets within 24 hours of any incident against PFI. The approver Aboobacker Sidik also stated about the presence of Ameer Ali and other leaders at PFI office at Puthupallitheru on 15.04.2022 where they decided to commit the murder.

(h) As per the disclosure statement made by the approver Aboobacker Sidik (A-52), scene mahazar was prepared from PFI office, Puthupallitheru wherein Ameer Ali and other senior leaders of PFI conspired to commit the murder. CDR/IPDR locations of accused Ameer Ali shows his presence at the place of conspiracy on 15.04.2022.

(i) The statement of protected witness-25 indicates about the presence of Ameer Ali along with the PFI leaders and other cadres in the conspiracy held in the night of 15th April 2022 near Government Hospital, Mortuary gate from where they left for recce the target and to eliminate them. The CDR location of Ameer Ali would show his presence at the place of conspiracy near the Mortuary gate as per D-351 seizure mahazar. The car bearing registration no.KL-56-



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A-8833 used by Ameer Ali to reach the place of conspiracy was recovered as per his disclosure.

(j) CW-313 stated that he identified the accused Ameer Ali who stayed along with other leaders of PFI in the Malabar Lodge in the night of 15.04.2022. CW-368 stated that Ameer Ali stayed at Malabar Lodge at Ottappalam along with other PFI leaders. The CDR/IPDR location of accused Ameer Ali shows his presence at Malabar Lodge where they assembled for co-ordinating their plan of murder.

(k) CW-37 and 38 and protected witnesses 13, 18, 19, 22 & 36 had seen Ameer Ali along with the assailants Abdul Rahman, Abdul Khader, Biala, Sahad, Jamsheer and others on 15.04.2022 at noon at a vacant place near District Hospital, Palakkad wherein the accused conspired to commit the murder of Srinivasan.

(l) The statement of approver Aboobacker Siddik (A-52) stated that 'the plan was to kill anyone. The decision to kill Srinivasan was taken near hospital premises and behind the hospital'. He further say that along with Ameer Ali (A-55), Muhammed Riswan @ Riswan (A-42) and other accused were took part in the conspiracy.

(m) The CDR/IPDR location of the accused Ameer Ali shows his presence at the place of conspiracy near the Government Hospital, Palakkad on 16.04.2022.

14. It is in the backdrop of the charges and the material discussed above that we have applied the principles enumerated in the earlier paragraphs of this judgment to the case of



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each of the appellants before us. We have kept in mind the mandate of the Constitution and weighed the *prima facie* worth of the accusations made against each of the appellants/accused separately with a view to determining whether there exist reasonable grounds to believe that the accusations against them are *prima facie* true. We have also taken note of the contention of the learned counsel for the appellants that such an exercise was not undertaken by the Special Court that dismissed their bail applications.

15. We now proceed to consider the merits of each appeal individually and to test the correctness of the Special Court's orders dismissing the appeals.

Crl.Appeal No.1840/2024

16. This Criminal Appeal is preferred by accused nos.34, 35 and 36 respectively impugning the order of the Special Court for the Trial of NIA Cases, Ernakulam dated 29.08.2024 in Crl.M.P.No.316/2024 in S.C.No.2/2023.

17. The appellants herein were charged with the offences punishable under Sections 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and under



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Sections 13,18 & 20 of UA (P) Act. On a perusal of the materials produced by the prosecution, it could be seen that the appellants herein have crossed the threshold of general allegations coupled with overt acts that would clearly suggest the complicity of the accused in the offence with which they are charged. The appellants/accused were actively participated in the conspiracy to commit the unlawful and terrorist act, and they have assisted the assailants by supplying vehicles to them and conducted a recce of the target. They have also attempted to conceal/hide the evidence by dismantling the motor cycles and the number plates thereof, so as to cause the disappearance of evidence and to harbour the assailants from legal punishment.

18. Learned counsel for the appellants submitted that the allegations against the appellants are false and incorrect. They are innocent and in no way connected with the alleged offence. The learned counsel for the appellants would further submit that the appellants/accused are in judicial custody for the past two years and there is no chance of concluding the trial in the near future. The trial has not yet started and there are 951 number of witnesses in this case. Per contra, learned Public Prosecutor would submit that the



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appellants herein have played a pivotal role in the commission of the crime. The available materials produced by the prosecution are sufficient to hold that there is a prima facie case against the accused/appellants. The prosecution is ready to start the trial right now, but the trial is being delayed by the conduct of the appellants themselves.

19. Learned Public Prosecutor further submitted that the appellants are involved in terrorist activities and considering the nature, gravity and the seriousness of the offences alleged against them, they shall not be enlarged on bail. The learned Public Prosecutor would further submit that though the general rule is that *'Bail is the rule, Jail is exception'*, but the cardinal rule is not applicable in the present case, since it involves terrorist – anti national activities.

20. Before further discussion, it may be useful to have a look at the materials produced by the prosecution against the appellants in nutshell.



The materials against **Haneefa (A-34)**, 1st appellant in Crl.Appeal No.1840/2024:

A) The statements of approver Aboobacker Siddik (A-52), CWs. 121, 122, 294, 771, 772, 773, 799 and 883 would indicate that A-34 Haneefa is an active cadre of PFI. He has actively participated in the procession of PFI.

B) He participated in a conspiracy in the shop of Nassar @ Laden Nassar (A33) Ali K @ Ragam Ali (A38), Khaja Hussain (A35) and others on 15.04.2022.

C) The CDR and IPDR links would indicate the presence of Haneefa and others at the place of conspiracy held on 15.04.2022.

D) The Approver Muhammed Shajid stated that the motor cycle bearing registration no.KL-45K-5724 used by the assailant Adru (A-17) and Muhammed Mansoor (A-21) was initially concealed in the poultry farm jointly owned by Haneefa and Khaja Hussain. Later, the said vehicle was dismantled by Khaja Hussain, the 2nd appellant and Muhammed Hakkeem, the 3rd appellant.

E) The FSL report (D-1462) would show that the oil swab recovered from the place of dismantling of the motor cycle contain the engine oil. Some parts of the motor cycle (MO-88 to MO-90) were recovered from the poultry farm of Haneefa as per his disclosure statement.

F) Haneefa has concealed the number plates of dismantled vehicle for causing disappearance of the evidence.

G) CWs. 95 to 98 would show that some number plates were recovered from the waste pit of the poultry farm at the instance of Haneefa.



The materials against **Khaja Hussain (A-35)**, 2nd appellant in Crl.Appeal No.1840/2024:

- A) He attended conspiracy meetings in the Curtain shop of Nassar @ Laden Nassar (A-33) on 15.04.2022.
- B) The statements of approver Aboobacker Sidik and CWs.121, 122, 771, 772, 773, 834 and 840 states that A-35 Khaja Hussain is an active cadre of PFI.
- C) CW121 also stated that Khaja Hussain, the 2nd appellant participated in the conspiracy meeting conducted in the shop of Nassar @ Laden Nassar on 15.04.2022.
- D) The CDR/IPDR links would indicate the presence of Khaja Hussain and others at the place of conspiracy held on 15.04.2022.
- E) The Approver Muhammed Shajid stated that the motor cycle bearing registration no.KL-45K-5724 used by the assailant Adru (A-17) and Muhammed Mansoor (A-21) was initially concealed in the poultry farm jointly owned by Khaja Hussain and Haneefa. Later, the said vehicle was dismantled by Khaja Hussain, the 2nd appellant and Muhammed Hakkeem, the 3rd appellant.
- F) The FSL report (D-1462) would show that the oil swab recovered from the place of dismantling of the motor cycle contain the engine oil. Some parts of the motor cycle (MO-88 to MO-90) were recovered from the poultry farm jointly owned by Khaja Hussain and Haneefa.
- G) CWs.95 to 98 stated that Khaja Hussain and Haneefa are the owners of the poultry farm from where the motor cycle was dismantled. They would also state about the recovery of number



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plates from the waste pit of the poultry farm at the instance of Haneefa.

H) As per the disclosure statement of Khaja Hussain (A-35), 16 parts of dismantled motor cycle (MO-51 to MO-66) were recovered from the scrap shop of Muhammed Hakkeem (A-36).

I) CW1, CW3 and CW5 stated that they have seen the assailant Abdul Rahman (A-17) came to the scene of occurrence in a motor cycle bearing registration no.KL-45K-5724.

J) As per D-99 seizure mahazar, the goods autorikshaw owned by Khaja Hussain (A-35) which was used by transporting the dismantled parts of the motor cycle was recovered as per the disclosure statement of Khaja Hussain.

The materials against **Muhammed Hakkeem (A-36)**, 3rd appellant in Crl.Appeal No.1840/2024:

A) CWs.121, 122, 771, 772 & 773 stated that Muhammed Hakkeem, the 3rd appellant is an active cadre of PFI.

B) PFI uniforms, PFI flags etc. (MO541-554) were seized from the Valluvanad house as per the disclosure statement of Muhammed Hakkeem.

C) The Approver Muhammed Shajid stated that the Muhammed Hakkeem attended arms training imparted by PFI at Valluvanad house, Palakkad.

D) The protected witnesses 13 and 22 stated that they had seen Muhammed Hakkeem along with the assailants at 12 hours on 16.04.2022 at a vacant land near District Hospital, Palakkad, just



before the murder of Srinivasan.

E) The Approver Aboobacker Sidik (A-52) stated that the plan was to kill anyone. The decision to kill Srinivasan was taken near hospital premises and behind the hospital. In that conspiracy meeting Muhammed Hakkeem participated along with the assailants on 16.04.2022.

F) CDR/IPDR links (D-1451) indicate the presence of Mohammed Hakkeem and other leaders of PFI at the place of conspiracy.

G) The Approver Muhammed Shajid stated that the motor cycle bearing registration no.KL-45K-5724 used by the assailant Adru (A-17) and Muhammed Mansoor (A-21) was initially concealed in the poultry farm jointly owned by Khaja Hussain and Haneefa. Later, the said vehicle was dismantled by Khaja Hussain, the 2nd appellant and Muhammed Hakkeem, the 3rd appellant and further shifted to the scrap shop run by Muhammed Hakkeem.

H) The FSL report (D-1462) would show that the oil swab recovered from the place of dismantling of the motor cycle contain the engine oil. Some parts of the motor cycle (MO-88 to MO-90) were recovered from the poultry farm jointly owned by Khaja Hussain and Haneefa.

I) As per D-538 recovery mahazar, MO-240 cutter which was used for dismantling the motor cycle was recovered as per the disclosure statement of Muhammed Hakkeem the 3rd appellant.

J) As per D.93 recovery mahazar, 16 parts of dismantled motor cycle (MO-51 to MO-66) were recovered from the scrap shop of Muhammed Hakkeem (A36).



20. We have anxiously considered the rival contentions of the learned counsel for the appellants and that of the learned Public Prosecutor and perused the materials on record. Upon a careful consideration of the available materials on record, we are of the view that the prosecution has succeeded in showing that the allegations against the appellants in Crl.Appeal No.1840/2024 are *prima facie* true. On perusal of the materials on record, it could be seen that the appellants herein have played active role in concealing the motor cycle bearing registration no.KL-45-K-5724. The said motor cycle was initially concealed in the poultry farm jointly owned by Haneefa (A34) and Khaja Hussain (A35) and later, it was dismantled by Khaja Hussain, 2nd appellant and Muhammed Hakkeem, 3rd appellant. Moreover, Haneefa has concealed the number plates of the dismantled vehicle for causing the disappearance of evidence. Some parts of the motor cycle were recovered from the poultry farm jointly owned by Haneefa and Khaja Hussain. The said vehicle has been used by the assailants.

21. The goods autorikshaw owned by Khaja Hussain (A35) was used for transportation of the dismantled parts of the motor cycle. Later, the dismantled parts of the motor cycle were



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shifted by the 3rd appellant, Muhammed Hakkeem, to his scrap shop for causing the disappearance of evidence, which is punishable under Section 201 of the Indian Penal Code. *Prima facie*, there are reason to believe that the appellants did the above said acts with the intention of screening the offender from legal punishment. Therefore, the appellants are not entitled to be released on bail under Section 43D(5) of the UA (P) Act, in our view.

Crl.Appeal No.1842/2024

22. Accused nos.47, 48, 49 and 55 preferred this appeal impugning the order dated 31.08.2024 in Crl.M.P.No.317/2024 in S.C.No.2/2023 of the Special Court for Trial of NIA cases, Ernakulam. The appellants herein were charged with the offences punishable under Sections 120B, 34, 118, 119, 109, 115, 143, 144, 147, 148, 449, 341, 201, 212, 302 r/w 149 of IPC and under Sections 13,18 & 20 of UA (P) Act. On a perusal of the materials produced by the prosecution, it could be seen that the appellants herein have crossed the threshold of general allegations coupled with overt acts that would clearly suggest the complicity of the accused in the offence with which they are charged. The appellants/accused were actively participated in the conspiracy to commit the unlawful and



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terrorist act, and they have assisted the assailants by supplying vehicles to them and conducted a recce of the target. They have resided along with the assailants at Malabar Lodge, Ottappalam for co-ordinating their plans of unlawful and terrorist activities.

23. The learned counsel for the appellants submitted that the appellants are innocent and they are falsely implicated in the case. The appellants are in judicial custody for the past two years. There is no possibility for the completion of trial in the near future. There are 951 witnesses in this case.

24. Per contra, learned Public Prosecutor submitted that the offences alleged against the appellants/accused are grave and serious in nature. The appellants herein are cadres and activists of PFI, a prohibited organization. The appellants are involved in terrorist activities and if they were released on bail, it would adversely affect the society.

Materials placed against **Abbas (A-47)**, 1st appellant in Crl.Appeal No.1842/2024:

A) The statement of approver Aboobacker Sidik (A52), the statement of protected witnesses-17, CW 783, 784, 786, 797, 798, 814, 835 stated that accused Abbas (A-47) is an active cadre of PFI.



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The video recovered from the mobile phone (MO-72) of Sadam Hussain (A-46) shows that Abbas has participated in the procession of PFI. The statements of protected witness -17 stated that he had seen Abbas (A-47) along with assailants Adru@ Abdul Rahman (A-17), Abdul Khader @ Iqbal (A-19) and other accused Jamsheer (A-25), Kaja Hussain @ Robot Kaja (A-26), Naushad(A-48), Basheer (A-49) and other leaders of PFI and they were undergoing physical training and arms training at Falah Masjid.

B) D-347 scene mahazar prepared as per the disclosure statement of accused Basheer (A-49) would show that arms training was being conducted at Falah Masjid at Palakkad in which, along with Abbas (A-47) and Naushad (A-48) and other co-accused attended.

C) CW-835 stated that he had seen Abbas (A-47) along with assailants Adru @ Abdul Rahman (A-17), Firoz @ Thambi (A-20), Muhamed Bilal (A-22) and Basheer (A-49) and they took part in the arms training of PFI conducted at Falah Masjid.

D) CW-814 stated that he has seen Abbas (A-47) taking part in the conspiracy held near Government Hospital Mortuary gate in the night of 15th April 2022 along with assailants Adru @ Adbul Rahman, Ummar @ Manu, Abdul Khader @ Iqbal, including Naushad(A-48), Basheer (A-49), Ameer Ali (A-55) and other leaders and cadres of PFI.

E) The CDR location of Abbas (A-47) shows that he participated in the conspiracy held near Khabarsthan on 15.04.2022.

F) The statement of CW-37 and protected witness 36 stated that they had seen Abbas (A-47) along with assailants at the place of conspiracy on 16.04.2022 (just before the murder of Srinivasan).

G) The statement of approver Aboobacker Sidik (A-52) stated that 'the plan was to kill anyone. The decision to kill Srinivasan was



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taken near hospital premises and behind the hospital'. He further say that along with Abbas (A-47), Muhammed Riswan @ Riswan (A-42) and other accused were took part in the conspiracy. The CDR location of Abbas (A-47) shows his presence at conspiracy place on 16.04.2022.

H) CW-814 stated that the accused Abbas (A-47) had arranged motorcycle bearing registration No.KL-09-AQ-713 to the assailants, which was used by the assailants for conducting the recce in the night of 15.04.2022 to locate the target for committing the terrorist act.

Materials placed against **Naushad (A-48)**, 2nd appellant in Crl.Appeal No.1842/2024:

A) The statement of approver Aboobacker Sidik (A52), the statement of protected witnesses-17, CW 783, 784, 786, 797, 798, 814, 835 stated that accused Naushad (A-48) is an active cadre of PFI. The statements of protected witness -17 stated that he had seen Naushad (A-48) along with assailants Adru@ Abdul Rahman (A-17), Abdul Khader @ Iqbal (A-19) and other accused Jamsheer (A-25), Kaja Hussain @ Robot Kaja (A-26), Abbas (A-47), Basheer (A-49) and other leaders of PFI and they were undergoing physical training and arms training at Falah Masjid.

B) D-347 scene mahazar prepared as per the disclosure statement of accused Basheer (A-49) would show that arms training was being conducted at Falah Masjid at Palakkad along with Naushad (A-48) and Abbas (A-47) and other co-accused attended.



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C) CW-814 stated that he has seen Naushad (A-48) taking part in the conspiracy held near Government Hospital Mortuary gate in the night of 15th April 2022 along with assailants Adru @ Abdul Rahman, Ummar @ Manu, Abdul Khader @ Iqbal, including Abbas (A-47), Basheer (A-49), Ameer Ali (A-55) and other leaders and cadres of PFI.

D) The CDR location of Naushad (A-48) shows that he participated in the conspiracy held near Khabarsthan on 15.04.2022.

E) The statement of approver Aboobacker Siddik (A-52) and Rishil (A-28) would clearly state that the accused Naushad (A-48) conducted a recce of the target to eliminate them in the night of 15.04.2024.

F) The statement of CW-329 indicates that Naushad (A-48) used motor cycle bearing registration no. KL-14-7467 to reach the conspiracy place.

G) The statement of protected witnesses 36 and 37 would speak about the presence of Naushad (A-48) along with assailants and other accused at the conspiracy place near Khabrishtan at Palakkad in the night of 15.04.2022 from where they left for conducting recce the target to commit terrorist act.

H) The statement of CW-203 speaks about the suspicious moment of the accused in motor cycles in front of Kinfra at Lakkidi. The motor cycle bearing registration no.KL-9-AK-6726 (MO-120) was seized as per D-26 seizure mahazar. The said vehicle was used by the accused Naushad (A-48) and Basheer (A-49) during the night of 15.04.2022. The said motor cycle was again used by the assailant Abdul Khader.



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I) The CCTV footages seized from Bismillah Motors, Pathiripala and From Kinfra, Lakkidi on 25.06.2022 shows that Naushad and Basheer were travelled to recce the targets. The statements of CW37 and CW38 and protected witnesses 22 and 36 would show that they had seen Naushad along with the assailants on 16.04.2022 at 12 noon (just before the murder of Srinivasan) at a vacant land near the District Hospital, Palakkad wherein they conspired to commit the murder of Srinivasan on 16.04.2022.

J) The statement of approver Aboobacker Siddik (A-52) stated that 'the plan was to kill anyone. The decision to kill Srinivasan was taken near hospital premises and behind the hospital'. He further say that along with Naushad (A-48), Muhammed Riswan @ Riswan (A-42) and other accused were took part in the conspiracy.

K) The location of the accused Naushad (D-566, D-522, D-1451, D-1541, D-1563 and D-1564) shows the presence of the accused at the place of conspiracy on 16.04.2022.

L) The mobile phones concealed by Ashraf (A-44) was recovered as per seizure mahazar (D-359) based on the disclosure statement of Naushad.

Materials placed against **Basheer T.E (A-49)**, 3rd appellant in Crl.Appeal No.1842/2024:

A) The statement of approver Aboobacker Sidik (A-52), the statement of protected witnesses-17, CW 784, 786, 797, 798, 800, 835 stated that accused Basheer (A-49) is an active cadre of PFI. The video recovered from the mobile phone (MO-99) of Firoz @ Thambi (A-20) shows the participation in a procession of PFI which would



show that Basheer is an active cadre of PFI.

B) D-347 scene mahazar prepared as per the disclosure statement of accused Basheer (A-49) would show that arms training was being conducted at Falah Masjid at Palakkad wherein Basheer (A-49), Naushad (A-48) and Abbas (A-47) and other co-accused attended.

C) CW-835 stated that Basheer is the master trainer of PFI. He imparted training to the assailants Adu @ Abdul Rahman, Firoz @ Thambi, Muhamed Bilal, and others.

D) CW-814 stated that he has seen Naushad (A-48) taking part in the conspiracy held near Government Hospital Mortuary gate in the night of 15th April 2022 along with assailants Adu @ Abdul Rahman, Ummar @ Manu, Abdul Khader @ Iqbal, including Abbas (A-47), Basheer (A-49), Ameer Ali (A-55) and other leaders and cadres of PFI.

E) CW-814 and protected witnesses 36 and 37 stated that he has seen Basheer (A-49) taking part in the conspiracy held near Government Hospital Mortuary gate in the night of 15th April 2022 along with assailants Adu @ Abdul Rahman, Ummar @ Manu, Abdul Khader @ Iqbal, Muhammed Mansoor, Muhammed Bilal, Ansar K P, Riyasudheen @ Riyas, Saheer K V and other accused, including Naushad(A-48), Muhammedali, Ameer Ali (A-55) and other leaders and cadres of PFI.

F) D-16 is the scene mahazar prepared from the Khabrishtan wherein Basheer (A-49), assailants and others hatched a conspiracy and proceeded to conduct recce the target.

G) The CDR location of Basheer (A-49) shows his presence at conspiracy place on 15.04.2022.



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H) The statement of protected witness-17 is that he had seen Basheer (A-49) along with the assailants Adru @ Abdul Rahman, Abdul Khader @ Iqbal, Jamsheer, Kajahussain, Abbas, Naushad and others undergoing physical training at Falah Masjid, Palakkad.

I) The protected witnesses 37, 38 and CW-814 has seen Basheer along with assailants at the place of conspiracy near Khabarsthan on 15.04.2022.

J) CW-203 speaks about suspicious movement of the accused in motor cycles in front of Kinfra at Lakkidi. D-26 seizure mahazar was prepared as per the disclosure statement of assailant Abdul Khader, through which KL-9-AK-6726 motor cycle was seized. Basheer has used the said motor cycle for recce during the night on 15.04.2022.

K) The CCTV footages seized from Bismillah Motors, Pathiripala and from Kinfra, Lakkidi on 25.06.2022 shows that Basheer and Naushad were travelled to recce the targets.

L) The statement of approver Aboobacker Sidik (A-52) stated that 'the plan was to kill anyone. The decision to kill Srinivasan was taken near hospital premises and behind the hospital'. He further say that Besides Basheer, Muhammed Riswan @ Riswan (A-42) and other accused were took part in the conspiracy.

M) The CDR location of the accused Basheer would show his presence at the place of conspiracy on 16.04.2022.

Materials placed against **Ameer Ali (A-55)**, 4th appellant in Crl.Appeal No.1842/2024:

A) The statement of approver Aboobacker Sidik (A-52) and the statement of protected witnesses-17, CW 784, 786, 797, 798, 799,



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800, 801, 803, 808 stated that accused Ameer Ali (A-55) is an active cadre of PFI.

B) Several documents, notices, magazines etc., were seized from his house search which *inter alia* includes controversial question paper which led to the hand chopping case (D-340) PFI notices (D-355) and PFI belt (MO-173). Various photographs of accused Ameer Ali were also seized wherein he has addressing the meetings conducted by PFI recovered from the memory card.

C) The statement of protected witness 3 is that Ameer Ali and others had attended the arms training at Periyar Valley Campus imparted by the master trainer Mohamed Mubarak (A-15).

D) The protected witness-35 stated that Ameer Ali took part in the conspiracy meeting held on 15.04.2022 along with Rasheed K T (A-56), Saidali (A-57) & Noushad M (A-58).

F) The CDR/IPDR location of Ameer Ali shows his presence at the place of conspiracy on 15.04.2022.

G) The statements of protected witnesses 23 and 24 is that there was a conspiracy among the PFI leaders including Ameer Ali to identify and eliminate the Hindu leader.

H) The statement of approver Aboobacker Siddik (A-52) states about the hidden agenda of PFI to establish Islamic rule. **He stated that the role of 'reporter wing' is to collect details of the targets, the role of 'PE wing' is to impart physical and arms training and the role of 'Hit squad/service wing' is to execute the plan by eliminating the targets within 24 hours of any incident against PFI.** The presence of Ameer Ali and other leaders at PFI office at Puthupallitheru on 15.04.2022 where they decided to commit the murder.



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- I) As per the disclosure statement made by the approver Aboobacker Sidik (A-52), scene mahazar was prepared from PFI office, Puthupallitheru and Ameer Ali conspired to commit the murder.
- J) CDR/IPDR locations of accused Ameer Ali shows his presence at the place of conspiracy on 15.04.2022.
- K) The statement of protected witness 25 indicates about the presence of Ameer Ali along with the PFI leaders and other cadres at the place of conspiracy held in the night of 15th April 2022 near Government Hospital, Mortuary gate. From where they left for recce the target and to eliminate them.
- L) The CDR location of Ameer Ali would show his presence at the place of conspiracy near the Mortuary gate.
- M) CW-313 stated that he identified the accused Ameer Ali who stayed along with other leaders of PFI in the Malabar Lodge in the night of 15.04.2022. CW-368 stated that Ameer Ali stayed at Malabar Lodge at Ottappalam along with other PFI leaders. The CDR/IPDR location of accused Ameer Ali shows his presence at Malabar Lodge where they assembled for co-ordinating their plan of murder.
- N) CW-37 and 38 and protected witnesses 13, 18, 19, 22 & 36 had seen Ameer Ali along with the assailants Abdul Rahman, Abdul Khader, Biala, Sahad, Jamsheer and others on 15.04.2022 at noon at a vacant place near District Hospital, Palakkad wherein the accused conspired to commit the murder of Srinivasan.

25. We have anxiously considered the rival contentions of the learned counsel for the appellants and that of the learned



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Public Prosecutor and perused the materials on record. Upon a careful consideration of the available materials on record, we are of the view that the prosecution has succeeded in showing that the allegations against the appellants in Crl.Appeal No.1842/2024 are *prima facie* true. On perusal of the available records, it is seen that Abbas (A47) 1st appellant has arranged the motor cycle bearing registration No.KL-9-AQ-713 to the assailants. The assailants used the said vehicle for conducting recce to locate the target and for committing the terrorist act. Noushad (A48) and Basheer (A49) had used the motor cycle bearing registration no.KL-9-AK-6726 during the night of 15.04.2022 and conducted recce of the target. The mobile phone concealed by Ashraf (A44) was recovered as per the disclosure statement of Noushad (A48).

26. Several documents, notices, magazines etc., were seized from the house of Ameer Ali which *inter alia* includes the controversial question paper which led to the 'hand chopping case'. Ameer Ali (A55), 4th appellant, had stayed along with other PFI leaders in the Malabar Lodge in the night of 15.04.2022 wherein they assembled for co-ordinating their plan of the murder of Srinivasan. Ameer Ali took active part in the conspiracy meeting held on



15.04.2022 along with the assailants. Therefore, the appellants are not entitled to be released on bail under Section 43D(5) of the UA (P) Act, in our view.

In the result, Crl.Appeal Nos.1840/2024 and 1842/2024 are dismissed.

Sd/-

DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-

K. V. JAYAKUMAR
JUDGE



APPENDIX OF CRL.A 1842/2024

PETITIONER ANNEXURES

- | | |
|-------------|---|
| Annexure A1 | TRUE COPY OF THE RELEVANT PAGES OF FINAL REPORT DATED 13.07.2022 IN FIR NO.318/2022 OF PALAKKAD TOWN SOUTH POLICE STATION |
| Annexure A2 | TRUE COPY OF THE RELEVANT PAGES OF SUPPLEMENTARY FINAL REPORT DATED 12.12.2022 IN FIR NO.318/2022 OF PALAKKAD TOWN SOUTH POLICE STATION |
| Annexure A3 | TRUE COPY OF THE RELEVANT PAGES OF CONSOLIDATED FINAL REPORT DATED 17.03.2023 IN SC NO.2/2023 BEFORE SPECIAL COURT FOR NIA CASES, ERNAKULAM |



APPENDIX OF CRL.A 1840/2024

PETITIONER ANNEXURES

Annexure A1

TRUE COPY OF THE RELEVANT PAGES OF FINAL REPORT
DATED 13.07.2022 IN FIR NO.318/2022 OF PALAKKAD
TOWN SOUTH POLICE STATION

Annexure A2

TRUE COPY OF THE RELEVANT PAGES OF CONSOLIDATED
FINAL REPORT DATED 17.03.2023 IN SC NO.2/2023 BEFORE
SPECIAL COURT FOR NIA CASES, ERNAKULAM