



IN THE COURT OF SESSION, THALASSERY

Present: Sri. K.T. Nisar Ahammed, Sessions Judge.

Tuesday, the 29th day of October, 2024/7th Karthika, 1946.

Crl.M.C. No.1700/2024

(Crime No. 1149/2024 of Kannur Town Police Station)

Petitioner/Accused :-

P.P. Divya, D/o A.P. Chandran, Aged 40 years,
Thejus, PO.Irinavu, Kannur Taluk, Kannur district-670301.

Respondent/Complainant:-

State: The SHO, Kannur Town Police Station
Rep. by Public Prosecutor, Thalassery.

Petition under Section 482 of BNSS 2023 for anticipatory bail.

This petition coming on the 24th day of October, 2024 for final hearing before me in the presence of Sri.K.Viswan, Advocate for the petitioner, and the Sri.K.Ajith Kumar, Public Prosecutor for the State/respondent, and S/Sri.John S Ralph, P.M.Sajitha, Biju C Elavumkal, Sanu.S.K, Minisha.M and Dayana Tom, Advocates for defacto complainant, and having stood over for consideration till this day, the Court passed the following:-

ORDER

Petition for Anticipatory Bail filed under Section 482 of BNSS.

2. Petitioner is the accused in Crime No.1149/2024 of Kannur Town Police Station, registered for the offence u/s. 108 of BNS.

3. The prosecution case in brief is as follows:

Mr. Naveen Babu, was the Additional District Magistrate (ADM) of Kannur. He got transfer to his native district, Pathanamthitta. On 14.10.2024 at 3pm, his colleagues and

subordinates had arranged a farewell function at Collectorate Conference Hall, Kannur. At that time, the accused herein, the President of District Panchayath, Kannur came to the function, uninvited. She herself switched on the mike and started a speech under the guise of felicitation. She made allegation of corruption against Mr. Naveen Babu, in the presence of his superior, District Collector, Kannur, colleagues and also the subordinates. Apart from making such comments, she had made a threat that, "within two days, you all will know the reasons." She herself invited local Television Channel, to cover the function and published the video of her speech in the media including social media and thereby insulted and humiliated the ADM, in public. Because of the humiliation and insult, that too in the presence of his superior, colleagues and subordinates, Mr. Naveen Babu, ADM Kannur committed suicide on the very next day. Thus, the prosecution alleges that the accused had instigated and thereby abetted the suicide of Mr. Naveen Babu, ADM, Kannur and so, committed the offence punishable under Section 108 of BNS. Police registered the crime initially under Section 194 of BNSS and later, after investigation altered to Sec.108 of BNS.

4. The petition averments in brief are as follows:

The petitioner was the President of District Panchayath, Kannur till she resigned on 17.10.2024. She is a Post Graduate and was working as Announcer, All India Radio. She started her career by joining Student Federation of India and she became the Union Councilor, Kannur University and Vice Chairman. She was the member of District Committee of SFI and member of Central Committee, DYFI. Now she is the member of District Committee of CPI(M) and State Joint Secretary of "Janathipathya Mahila

Association". She is the member of Senate, Kannur University and also Kerala State "Padya Padhathi Karikkulam". She is the member of governing body of Kerala State Kudumbasree Mission and Chairperson of Kannur District Planning Committee. She was the member of District Panchayath, Kannur during the period 2010-2015, Vice President during the period 2015-2020 and later became the President of District Panchayath from 2020 till her resignation. She was also the member of Kerala State Football Team. She is a recipient of several awards including APJ Abdul Kalam Trust Puraskar, Vanitha Ratna Puraskkaram, Kannadi Purasskkaram and Aasadi Puraskkaram. etc. Because of her hard work, she is having good reputation and high esteem in general public. During her tenure, Kannur District Panchayath received various awards including the best District Panchayath in the State of Kerala and also obtained world record by publishing 1500 books of the students in one programme.

5. The petitioner has made several creative interference in eradication of corrupt practices in public office under Kannur District Panchayath. The interference of the petitioner had made a great impact in reducing the corrupt practices at District Hospital, Kannur. She used to attend the grievance of the general public and advices the public servants to provide appropriate and speedy services. It is her duty to eradicate corruption, malpractices and harassment from the side of the Government officials coming under District Panchayath, Kannur. She gave paramount consideration for the welfare and wellbeing of the general public and expeditious disposal of the files.

6. While so, one Mr. Gangadharan approached her raising complaint against the deceased ADM, alleging corrupt practices. One

Mr. Prasanth approached her by complaining inordinate delay in the disposal of his application pending before the ADM, Kannur. The petitioner contacted ADM and requested for expeditious disposal of the file. But, there was no positive movement. On 09.10.2024 at 4.30pm, the above said Prasanth met the petitioner and informed her, that he got the file disposed by paying one lakh rupees as bribe to ADM. She immediately advised Mr. Prasanth to file a complaint against the corrupt practice. She learnt that Mr. Prasanth had filed a complaint on 10.10.2024, to the Hon'ble Chief Minister of Kerala.

7. On 14.10.2024, there was an official programme namely "സാമൂഹ്യ ഐക്യദാർഢ്യ പക്ഷചാരണം", Organized by the Scheduled Caste Development Department at District Planning Hall at 10a.m. It was inaugurated by the petitioner and District Collector, Kannur was the chief guest. During the meeting, there was an informal discussion between the petitioner and District Collector. District Collector informed her that there is a send-off proposed to be arranged for ADM, Kannur in the evening at 3p.m and the petitioner agreed to attend the function. Till 3'O Clock, she was in her chamber and then she contacted the District Collector and enquired about the function and District Collector informed her that, the function is being commenced. She rushed to the Collectorate Conference Hall and attended the function. From the function, she was invited by Smt.Sruthy, Deputy Collector, Kannur for addressing the gathering. The petitioner gave a speech by affirming importance of the best and appropriate services to be provided to the general public. The full text of the speech is as follows:

"ബഹുമാനപ്പെട്ട കേരളത്തിന്റെ മുഖ്യമന്ത്രി, അദ്ദേഹം മുഖ്യമന്ത്രിയായിട്ട് ചുമതലയേറ്റ് പറഞ്ഞ ഏറ്റവും സുപ്രധാനമായ, എന്റെയൊക്കെ ഹൃദയത്തിൽ തറച്ച ഒരു വാചകം, ഒരു ഫയൽ എന്നാൽ അതൊരു മനുഷ്യന്റെ ജീവിതമാണെന്നാണ്. പലപ്പോഴും ഞാൻ ഒരു വിമർശനമായിട്ട് പറയുന്നതായാണ് നിങ്ങൾ കരുതുക പലപ്പോഴും. അങ്ങനെ പറഞ്ഞിട്ട് പോലും ഒരു ഫയൽ, എന്റെ കൈയിലുള്ളൊരു ഫയൽ ഒരു മനുഷ്യന്റെ ജീവിതമാണെന്ന് എത്ര പേർക്ക് തോന്നിയിട്ടുണ്ട്? 10 ഉം 15 ഉം പ്രാവശ്യം നമ്മുടെ ഓഫീസിൽ കയറിയിറങ്ങുന്ന മനുഷ്യർ, അവരങ്ങനെ വന്നു പോകുമ്പോൾ ആ മനുഷ്യന്റെ സ്ഥാനത്ത് ഞാനായിരുന്നെങ്കിലെന്ന് ഒരു തവണയെങ്കിലും എല്ലാ ഉദ്യോഗസ്ഥന്മാരും ഓർക്കണം എന്നുള്ളതാണ് എനിക്ക് നിങ്ങളോടഭ്യർത്ഥിക്കാനുള്ളത്. നമുക്ക് ചുറ്റും ഒരുപാട് കണ്ണുകളുണ്ട് എന്ന് തീർച്ചയായിട്ടും നമ്മള് വിശ്വസിക്കണം. ഒരു യാത്രയയപ്പ് യോഗത്തിൽ ഇപ്പോ എ.ഡി എം ന് എല്ലാ വിധ ആശംസകളും ഞാൻ നേരുകയാണ്. അദ്ദേഹം മറ്റൊരു ജില്ലയിലേക്ക് പോവുകയാണ്. ഞാൻ അദ്ദേഹത്തെ മുൻപെ മുൻ എ.ഡി എം ഉണ്ടായിരിക്കുന്ന സമയത്ത് നിരവധി തവണ എ.ഡി എമ്മുമായി ഇങ്ങനെ വിളിച്ചും പറഞ്ഞും ചെയ്യേണ്ട ഒരു സാഹചര്യം ഉണ്ടായിരുന്നു. പക്ഷെ ഇദ്ദേഹം വന്നപ്പോ അങ്ങനെയൊരു സാഹചര്യങ്ങൾ എന്റെ മുമ്പിൽ വന്നിട്ടില്ല. അങ്ങനെ വലിയൊരു സാഹചര്യം ഉണ്ടായിട്ടില്ല. പക്ഷെ, ഞാനൊരു തവണ ഇദ്ദേഹത്തെ വിളിച്ചിരുന്നു. ആ ഒരു തവണ വിളിച്ചിരുന്നത് ചെങ്ങളായിയിലെ ഒരു പെട്രോൾ പമ്പിന്റെ N.O.C യുമായി ബന്ധപ്പെട്ടുള്ളതാണ്. നിങ്ങളാ സൈറ്റൊന്ന് പോയി നോക്കണം. ഞാനൊരു പ്രാവശ്യം വിളിച്ചു, രണ്ടു പ്രാവശ്യം വിളിച്ചു, അപ്പോ ഒരു ദിവസം പോയിട്ട് ഞാൻ നോക്കിയിട്ടുണ്ടെന്ന് പറഞ്ഞു. ആ സംരംഭകൻ എന്റെ മുറിയിലേക്ക് പല തവണ വന്നു. തീരുമാനമായിട്ടില്ലല്ലോ പ്രസിഡണ്ടേ എന്നു പറഞ്ഞു. അപ്പോ ഞാമ്പറഞ്ഞു, തീരുമാനമാവും. വീണ്ടും വീണ്ടും അദ്ദേഹം എന്റെടുത്ത് വന്നു. ഞാൻ എ.ഡി എം നോട് പറഞ്ഞു ഇതെന്തെങ്കിലും നടക്കോ? അദ്ദേഹം പറഞ്ഞു, അല്ല, അതൊരു ചെറിയ പ്രശ്നംണ്ട്, ഒരു വളവും തിരിവുമൊക്കെയുള്ളതു കൊണ്ട് അതിത്തിരി

പ്രയാസമാണെന്ന് അദ്ദേഹം പറഞ്ഞു. ഞാൻ ഈ സംരംഭവുമായി വന്ന അദ്ദേഹത്തോട് ഞാമ്പറഞ്ഞു. ഇടയ്ക്കിടെ വന്ന് എന്നെ കാണേണ്ടാവശ്യമില്ല. ഞാൻ ഒന്നോ രണ്ടോ തവണ അദ്ദേഹത്തോട് ഈ കാര്യങ്ങൾ പറഞ്ഞു കഴിഞ്ഞു, നിങ്ങളെ സഹായിക്കണം. ഒരു തടസ്സവും..... അതായത് ഒരു ബുദ്ധിമുട്ടില്ലെങ്കിൽ ഒരാളെ ഒരു സെക്കന്റ് വച്ച് സഹായിക്കേണ്ടവരാണ് നമ്മളെല്ലാം എന്ന് പറഞ്ഞ് മാസങ്ങൾ കറച്ചായി. കഴിഞ്ഞ ദിവസം ഇദ്ദേഹം പോകുന്നത് കൊണ്ട് അദ്ദേഹത്തിന് N.O.C കിട്ടി എന്നു പറഞ്ഞു. ഏതായാലും നന്നായി, N.O.C എങ്ങനെ കിട്ടി എന്നുള്ളത് എനിക്കറിയാം. ആ N.O.C കൊടുത്തതിന് അദ്ദേഹത്തോട് പ്രത്യേകം നന്ദി പറയാനാണ് കഷ്ടപ്പെട്ട് ഞാനീ സമയത്ത് ഈ പരിപാടിയിൽ പങ്കെടുക്കുവാൻ വന്നത്. ഒന്ന് ജീവിതത്തിൽ സത്യസന്ധത നമ്മളെപ്പോഴും പാലിക്കണം. നിങ്ങളൊരു വ്യക്തിയെ ഞാൻ നിങ്ങളോട് പറയാ ഒരു വ്യക്തിയേയും ചിരിച്ചുകൊണ്ടും അല്ലെങ്കിൽ പാൽപുഞ്ചിരി കൊണ്ടും മുണ്ടുടുത്തു കൊണ്ടും ജീവിക്കുന്നവരാണ് ഏറ്റവും വലിയ മനുഷ്യരെന്ന് ആരും ധരിക്കേണ്ട, അങ്ങനെ ആരും ധരിക്കേണ്ട. അതു കൊണ്ട് ഞാൻ അദ്ദേഹത്തോട് നന്ദി പറയാണ്. കാരണം, ഞാനൊരാൾക്കും അദ്ദേഹത്തോട് ഉന്നയിച്ചപ്പോൾ അദ്ദേഹം അത് നടത്തി കൊടുത്തു. കുറച്ചു മാസായെങ്കിലും നന്ദി പറയാണ്. കണ്ണൂരിൽ അദ്ദേഹം നടത്തിയ പോലെയായിരിക്കരുത് അദ്ദേഹം പോകുന്ന സ്ഥലത്ത് നടത്തേണ്ടത്. കാരണം ഇതു പോലെ ആയിരിക്കരുത് അദ്ദേഹം അവിടെ നടത്തേണ്ടത്. നിങ്ങൾ മെച്ചപ്പെട്ട രീതിയിൽ കൂടുതൽ മെച്ചപ്പെടണം എന്ന ആഗ്രഹമുണ്ട്. മെച്ചപ്പെട്ട രീതിയിൽ നിങ്ങൾ ആളുകളെ സഹായിക്കുക. കാരണം, നിങ്ങളുടെയെല്ലാം നമ്മുടെയെല്ലാം ചുറ്റും ആളുകളുണ്ട്. വളരെ കെയറ് ചെയ്യണം. കാരണം, ഇത് നമ്മുടെ ജീവിതം സർക്കാർ സർവ്വീസാണ്. ഒരു നിമിഷം മതി നമ്മുടെ ജീവിതത്തിൽ സംഭവിക്കാൻ ഒരു നിമിഷം മതി. ആ നിമിഷത്തെ കുറിച്ചാർത്തു കൊണ്ട് നമ്മുടെയെല്ലാവരുടേയും കയ്യിൽ പേന പിടിക്കണം എന്ന് മാത്രമാണ് ഞാനിപ്പോ നിങ്ങളോട് പറയുന്നത്. ഒരു രണ്ട് ദിവസം കാത്തിരിക്കണം. ഇത്ര മാത്രം പറഞ്ഞുകൊണ്ട് ഞാനിവിടുന്ന് ഇറങ്ങുന്നു. മറ്റൊന്നും

കൊണ്ടല്ല ഉപഹാരം സമർപ്പിക്കുന്ന ഒരു സമയത്തെ ചടങ്ങിൽ ഞാനുണ്ടാവരുതെന്ന് ഞാൻ ആഗ്രഹിക്കുന്നുണ്ട്. അതിന് പ്രത്യേക കാരണങ്ങളും കൂടിയുണ്ട്. ആ കാരണങ്ങൾ 2 ദിവസം കൊണ്ട് നിങ്ങളെല്ലാവരുമറിയും."

8. The petitioner made the above comments bonafide and she had no ill will. She wants the public servants to give speedy services to the public. She advised the ADM to give speedy services to the people of Pathanamthitta also where the ADM was transferred. She never intended to hurt anybody. The petitioner's intention was to ensure best services to the public from the Government servants. The petitioner never intended to drive anybody to commit suicide. She did not commit any offence. The petitioner has got a family consists of her husband, working as Attender, Pariyaram Medical College, her daughter studying in 10th standard and aged sick parents. She is looking after the aged parents. The petitioner is ready to co-operate with the investigation. The report filed by the Police is on account of the pressure of the political opponents. The entire allegation is false. The petitioner apprehends arrest and torture by the respondent. She is ready to abide any condition. Hence, the learned counsel prays for pre-arrest bail.

9. The wife of the deceased Naveen Babu, ADM appeared through Adv. John S. Ralph and Adv.P.M.Sajitha and filed objection. Their objections in brief are as follows:

The bereaved widow of an honest man is before the court seeking justice for a life lived with nothing but honour and integrity to uphold the official position he held. The famous Greek philosopher Plato said " There are three classes of men; Lovers of Wisdom, Lovers of Honour and Lovers of Gain". The tragedy that unfurled and shook

the conscience of the people in the State was a battle between the petitioner/accused, a lover of gain and the victim, a lover of honour; and it is up to the Court now to be the lover of wisdom to uphold the Honour for which an honest civil servant scarified his life. This is a case in which political power overpowered honesty and integrity of an officer. Here, the accused has instigated and thereby abetted the commission of suicide of Mr. Naveen Babu, ADM, Kannur. The premeditated and intentional acts of the accused was to humiliate the deceased in public and to circulate the same through Media. The accused was never invited to the function on 14.10.2024. It was an inhouse function of the office staff. Accused came to the function with a pre-arranged videographer with the sole intention of telecasting her speech. Her action of quitting the function without being present while memento was being handed over to the deceased shows her intention of humiliating the deceased. Immediately after quitting the function, her speech was aired and circulated. It was circulated even at Pathanamthitta, where the deceased lived and was expected to work until his retirement. The allegation raised by the accused in the function is absolutely false. The deceased was a man of highest integrity, known to all and the accused had no proof with her to show otherwise. The allegation of bribe made by the accused in the speech turned to be false since one person mentioned in the application refuted the allegation. The concluding portion of her speech was a threat to the deceased for further harassment by using her political power. There is close proximity between the speech and the suicide which shows that it was on that instigation, the deceased committed suicide.

10. For a man of honour, his integrity is more precious than his own life. So, it can be gathered that the willful actions on the part of the accused had made the deceased with no other option except to commit suicide. There is a Prima face case against the accused. The offence alleged is very serious and punishable for ten years imprisonment. Here, the acts of the accused are voluntarily. Even according to the accused, she was a person who was actively involved in politics for the past decades. Hence, she had every reason to believe that a man of integrity will commit such an act because his reputation in public is destroyed.

11. Accused claims that she is a crusader against corruption and that prompted her to make such comments in the function. Even from the petition averments, one can see that her claim is false and it is only a camouflage to explain her malicious conduct. It is her case that one Mr. Prasanth approached her on 09.10.2024 at 4.30pm and informed that he obtained order from the deceased by paying one lakh rupees as bribe. It is her case that she advised him to file a complaint to the Chief Minister. If she is a crusader against corruption, she should have immediately taken action against Mr. Prasanth, for bribing a high-ranking officer of the Government. The alleged complaint given by Mr. Prasanth to the Chief Minister of Kerala on 10.10.2024, is found to be fake and no such complaint has been received at the office of Chief Minister. If there was a complaint as alleged, then action should have been taken against Mr. Prasanth u/s.8 of the Prevention of Corruption Act. If the claim of the petitioner is correct, she should have immediately informed the same to District Collector, who was the immediate superior of the deceased. Accused claims that she met the District Collector in the morning and also in

the evening function. She had informal discussion with the District Collector. She had no case that she revealed the above allegations of bribery to the District Collector. After the incident, she has influenced the persons to give false evidence to create situations favourable to her.

12. In the bail application, she never undertook that she will not influence the witnesses. The political power being used by the petitioner shows that she is capable of manipulating, intimidating and influencing the witnesses through money and muscle power. The Government has deputed the Joint-commissioner of Land Revenue, Smt. A.Geetha IAS to enquire about the incident and she had recorded the statements of all witnesses concerned, except the petitioner/accused. That itself shows her non co-operation for the enquiry and investigation. Hence, for the above reasons, the petition for pre-arrest bail is liable to be dismissed.

13. The learned Public Prosecutor has produced the CD file.

14. Heard.

15. The learned counsel, Adv. Sri. K. Viswan appearing for the petitioner/accused has submitted that the petitioner is a person of high repute and having high esteem in general public. Because of her hard work, starting from college days itself, she worked in SFI, DYFI and now the member of District Committee of CPI(M). She was member of District Panchayath for long period. Then Vice President and from 2020 onwards, as the President of District Panchayath, Kannur till her resignation. She is recipient of several awards because of her excellent service. During her tenure, because of her best performance, the District Panchayath received several awards including the best District Panchayath in the State. The learned

counsel has further submitted that she is actively involved in anti-corruption movement. She had taken stern stand about corrupt practices in the Government institutions under the District Panchayath. Her active intervention had a great impact in reducing corruption in District Hospital, Kannur. As part of the anti-corruption movement and being a crusader against corruption, she made a bonafide comment based on the reliable information received by her. Her intention was to see that corruption is eradicated and public receives best service from Government servants, speedily. The learned counsel has argued that one Mr. Gangadharan and Mr. Prasanth had raised allegations of corruption against the deceased. Along with the bail application, she has produced the copy of the complaint given by Mr. Gangadharan. Along with that she has also produced the photographs regarding the awards and her attending functions against corruption. Mr. Prasanth approached her and complained that an application given by him for NOC for a Petrol pump, was kept by the deceased ADM and he sought her interference. She contacted the deceased and requested to look into the grievance of Mr. Prasanth. As there was no positive movement from the side of ADM, she again contacted him and requested to visit the place. Even then, there was huge delay. Mr. Prasanth repeatedly approached her by complaining inaction on the part of ADM. She has assured Mr. Prasanth that the file will be disposed of, soon. On 09.10.2024, Mr. Prasanth met her and told that he got the file disposed by giving rupees one lakh, as bribe to ADM. She immediately advised Mr. Prasanth to file a complaint to Chief Minister and to her knowledge, on 10.10.2024 itself, he filed a complaint before Chief Minister.

16. On 14.10.2024, morning there was an official function for her and the District Collector. In that meeting, they had an informal discussion. At that time, District Collector told her that there is a function today at 3p.m, to give sendoff to Mr. Naveen Babu, ADM who got a transfer to Pathanamthitta. She told the District Collector that she will attend the function. At around 3p.m, she contacted District Collector and she was informed that function being started. She rushed to the Conference hall of District Collectorate, Kannur and she was given a seat. Deputy Collector invited her to felicitate in the function. So, in the function, she made bonafide comments that the Government servants are supposed to serve the people without delay. In the meeting, she specified about the complaint received from Mr. Prasanth i.e. regarding an NOC for a petrol pump at Chengalayi. She made the comment that, though she had made a recommendation to the ADM, he had taken lot of time for giving NOC. She has also attributed extraneous consideration for the issuance of NOC. She advised ADM to give better service to the people at Pathanamthitta, where he was transferred. Immediately after the speech, she quit the function by saying that, "she does not want to be there in the programme when the memento was given to ADM." So, the argument was that, based on the complaint from Mr. Gangadharan and Prasanth, she was of the bonafide belief that the deceased had received bribe. She being a crusader against corruption, in order to avoid such incidents in future, attended the function and made the bonafide comment that such incidents should not be repeated. The Government servants are supposed to give service to people in a better and speedy manner. She never intended to drive ADM to commit suicide. She never instigated the suicide of the deceased. The

learned counsel has further submitted that she made the comments in a public function. She being a crusader against corruption and President of the District Panchayath, can attend function even without invitation. Whether she was invited for the function or not is immaterial. The comments made by her in the meeting is not the reason for the unfortunate incident. Based on the complaint of Mr. Prasanth, the Vigilance and Anti-corruption Bureau has already started proceedings against the deceased and that may be the reason for the unfortunate incident. The learned counsel has further submitted that, even if the entire allegation is accepted as true, no custodial interrogation is required, as nothing to be seized from the petitioner. The petitioner is a lady having several commitments to the family consists of aged parents, husband and a daughter. She is ready to abide any condition. Hence, the learned counsel prays for pre-arrest bail. The learned counsel has relied on the rulings reported in AIR 2010 SC 1446, AIR 2015 SC 3351, 1995 Supp (3) SCC 438, 2017 (5) KHC 543, 2024 (5) KHC 305, 2019 (3) SCC 315, AIR 2005 SC 3100, 2024(3) KCR 2920 and 2015 KHC 3015.

17. The learned Public Prosecutor vehemently opposed the bail application and submitted as follows:

The deceased was the ADM of Kannur. Till date, there was no complaint of any corrupt practices against him. He has got a good reputation and high esteem among his colleagues, subordinates and also in general public. When he has got a transfer to his native district Pathanamthitta, the staff council/his colleagues and subordinates staff of Collectorate, Kannur has arranged a farewell function on 14.10.2024 at 3pm, at Collectorate Conference hall. Being the head of the institution, the District Collector chaired the

function. It was purely an inhouse function. Neither the staff council nor the District Collector ever invited the accused to this function. While the function was going on, at around 3p.m, the accused, President of District Panchayath came to the function, uninvited. Being an electoral representative and a public servant above the rank of District Collector in protocol, she was allowed to occupy the seat. Before coming to the function, the accused personally contacted the local Television Channel, Kannur Vision Bureau Chief, Mr. Manoj Kumar and informed him about the function and demanded to cover the same. Accordingly, even before the accused coming to the function, videographer of the Channel was present in the Conference hall. Going by the statement of District Collector and others who organized the function, they never invited the accused. They never invited Kannur Vision, T V Channel to cover the function. Being an inhouse farewell function, usually there will not be any coverage by news channel. It can be seen that , they were under the impression that, since the Chief Guest of the day was ADM of the district, the news channel on their own came to cover the function. As a matter of courtesy and respect to a public servant higher in rank, Deputy Collector who was presiding the function invited the accused to address the gathering. In her speech, she has made grave allegation of corruption against the deceased. The learned Public Prosecutor has produced the compact disc(CD) containing the speech and also the hard copy. The learned Public Prosecutor has submitted that the petitioner has suppressed a portion of the speech made by her in the bail application. The speech was as follows.

"വഴിയെ പോകുന്നതിനിടയ്ക്കാണ് ഇങ്ങനെയൊരു യാത്രയയപ്പ് നടക്കുന്നുണ്ടെന്ന് മനസ്സിലായത്. യഥാർത്ഥത്തിൽ നമ്മള് ആലോചിക്കേണ്ട ഒരു

കാര്യം ഈ കളക്ട്രേറ്റിൽ വന്നു കയറിയിട്ടുള്ള പൊതുജനങ്ങളിൽ ഒരു പത്താളുകളെ ഈ കസേരയിൽ പിടിച്ചിരുത്തിയാൽ ADM ഉൾപ്പെടെ നിങ്ങളെല്ലാവരും എന്താണ് അവർ പറയുന്ന അഭിപ്രായം എന്നുള്ളതാണ് ഏറ്റവും പ്രധാനം. പണ്ടൊരു കഥയുണ്ട്. ഒരു തഹസിൽദാരുടെ അമ്മ മരണപ്പെട്ടപ്പോൾ ആളുകൾ മരണസ്ഥലത്തേക്ക് ഓഫീസിൽ നിന്ന് ഒരു വണ്ടി പിടിച്ചു പോവാൻ. അപ്പോൾ വണ്ടി പിടിച്ചു പോകുമ്പോൾ കുറച്ച ദൂരം എത്തിയപ്പോഴാണ് പറയുന്നത്, തഹസിൽദാരുടെ അമ്മയല്ല തഹസിൽദാരാണ് മരിച്ചെന്നുള്ളതാണ്. എന്നാൽ പിന്നെ വണ്ടി വിട്ടോ, തഹസിൽദാർ നമ്മളെ കാണല്ലല്ലോ എന്ന് പറഞ്ഞ് തിരിച്ച് വന്നു. ഞാനിതു പറയുന്നത് അത്രയേറെ ആത്മാർത്ഥതയില്ലാത്ത കള്ളവും ചതിയുമൊക്കെ നമ്മുടെ ചുറ്റിലുമുള്ള ഒരു കാലത്താണ് നമ്മളു ജീവിക്കുന്നത്. അതിന്റേതായിട്ടുള്ള പ്രശ്നങ്ങൾ നമ്മളിലുണ്ടാകും. ബഹുമാനപ്പെട്ട കേരളത്തിന്റെ മുഖ്യമന്ത്രി അദ്ദേഹം മുഖ്യമന്ത്രിയായിട്ട് ചുമതല ഏറ്റെടുത്ത ഏറ്റവും സുപ്രധാനമായ, എന്റെയൊക്കെ ഹൃദയത്തിൽ തറച്ച ഒരു വാചകമുണ്ട് ഒരു ഫയൽ എന്നാൽ അതൊരു മനുഷ്യന്റെ ജീവിതമാണെന്നുള്ളതാണ്. പലപ്പോഴും ഞാൻ ഒരു വിമർശനമായിട്ട് പറയുന്നതാണെന്ന് നിങ്ങൾ കരുതുക. പലപ്പോഴും അങ്ങനെ പറഞ്ഞിട്ട് പോലും ഒരു ഫയൽ, എന്റെ കൈയിലുള്ള ഒരു ഫയൽ ഒരു മനുഷ്യന്റെ ജീവിതമാണെന്ന് എത്ര പേർക്ക് തോന്നിയിട്ടുണ്ട്. പത്തും പതിനഞ്ചും പ്രാവശ്യം നമ്മുടെ ഓഫീസിൽ കയറിയിറങ്ങുന്ന മനുഷ്യൻ, അവരങ്ങനെ വന്നു പോകുമ്പോൾ ആ മനുഷ്യന്റെ സ്ഥാനത്ത് ഞാനായിരുന്നുവെങ്കിലെന്ന് ഒരു തവണയെങ്കിലും എല്ലാ ഉദ്യോഗസ്ഥന്മാരും ഓർക്കണം എന്നുള്ളതാണ് എനിക്ക് നിങ്ങളോടഭ്യർത്ഥിക്കാനുള്ളത്. മറ്റൊരു കാര്യം ഒന്ന് വളരെ സുതാര്യമായിട്ടുള്ള സംവിധാനങ്ങൾ ഉള്ള ഒരു കാലമാണ്. സുതാര്യമെന്ന് പറഞ്ഞാൽ ഒരു രഹസ്യവും നമുക്ക് ആർക്കുമില്ല. ഞാനിന്നീ ഫോണിൽ സംസാരിക്കുന്നത് പോലും പലർക്കും കേൾക്കാം എന്നാണ് പറയുന്നത്. ഞാൻ വിചാരിക്കുന്നത് ഞാൻ കലക്ടറെ വിളിക്കുമ്പോൾ ഞാനും കലക്ടറും മാത്രമേ അറിയൂ. അങ്ങനെയല്ല ഇതിനപ്പുറത്തേക്ക് ഒരു പാട്

ആളുകൾ കേൾക്കുന്നുണ്ട് നമുക്ക് ചുറ്റും ഒരു പാട് കണ്ണുകൾ ഉണ്ട് എന്ന് തീർച്ചയായിട്ടും നമ്മൾ വിശ്വസിക്കണം....ഒരു യാത്രയയപ്പ് യോഗത്തിൽ ഇപ്പോൾ ADM ന് എല്ലാവിധ ആശംസകളും ഞാൻ നേരുകയാണ്. അദ്ദേഹം മറ്റൊരു ജില്ലയിലേക്ക് അദ്ദേഹം പോകുകയാണ്. ഞാൻ അദ്ദേഹത്തെ മുൻ, മുൻ ADM ഉണ്ടായിരുന്ന സമയത്ത് ഇപ്പോൾ നിരവധി തവണ പഴയ എഡി എമ്മുമായിട്ട് ഇങ്ങനെ വിളിക്കുകയും പറയുകയും ചെയ്യേണ്ട സാഹചര്യമുണ്ടായിരുന്നു. പക്ഷേ ഇദ്ദേഹം വന്നപ്പോൾ അങ്ങനെയൊന്നും സാഹചര്യങ്ങൾ എന്റെ മുന്നിൽ അദ്ദേഹം വന്നിട്ടില്ല. അങ്ങനെ വന്നൊരു സാഹചര്യമുണ്ടായിട്ടുമില്ല. പക്ഷേ ഞാൻ ഒരു തവണ ഇദ്ദേഹത്തെ വിളിച്ചിട്ടുണ്ട്. ആ ഒരു തവണ വിളിച്ചിരിക്കുന്നത് ചെങ്ങളായിയിലെ ഒരു പെട്രോൾ പമ്പിന്റെ N.O.C യുമായി ബന്ധപ്പെട്ടാണ്. നിങ്ങൾ ആ സൈറ്റാണ് പോയി നോക്കണം. ഞാനൊരു പ്രാവശ്യം വിളിച്ചു, രണ്ടു പ്രാവശ്യം വിളിച്ചു. അപ്പോൾ ഒരു ദിവസം പോയിട്ട് ആ ഞാൻ സൈറ്റ് പോയി നോക്കിയിട്ടുണ്ടെന്ന് പറഞ്ഞു. ആ സംരംഭകൻ എന്റെ മുറിയിലേക്ക് പല തവണ വന്നു തീരുമാനമൊന്നുമായിട്ടില്ലല്ലോ പ്രസിഡണ്ടേ എന്നു പറഞ്ഞു. അപ്പോൾ ഞാൻ പറഞ്ഞു, തീരുമാനമാകും. വീണ്ടും വീണ്ടും അദ്ദേഹം എന്റെടുത്ത് വന്നു. ഞാൻ പിന്നെ എ.ഡി എം നോട് പറഞ്ഞു ഇതെന്തെങ്കിലും നടക്കുമോ? അപ്പോൾ അദ്ദേഹം പറഞ്ഞു, അങ്ങനെയല്ല, അതിൽ ചെറിയ പ്രശ്നമുണ്ട്. വളവും തിരിവുമൊക്കെയുള്ളതു കൊണ്ട് എൻ.ഒ സി കൊടുക്കാൻ ഇത്തിരി പ്രയാസമാണെന്ന് അദ്ദേഹം പറഞ്ഞു. ഞാൻ ഈ സംരംഭകൻ എന്റെടുത്ത് വന്നപ്പോൾ അദ്ദേഹത്തോട് ഞാൻ പറഞ്ഞു. നിങ്ങളിങ്ങനെ ഇടക്കിടക്കെ വന്ന് എന്നെ കാണേണ്ട ആവശ്യമില്ല. ഞാൻ ഒന്നോ രണ്ടോ തവണ അദ്ദേഹത്തോട് ഇക്കാര്യങ്ങൾ പറഞ്ഞു കഴിഞ്ഞു. നിങ്ങളെ സഹായിക്കണം. ഒരു തടസ്സവും അതായത് ഒരു ബുദ്ധിമുട്ടുമില്ലെങ്കിൽ ഒരാളെ ഒരു സെക്കന്റ് വച്ച് സഹായിക്കേണ്ടവരാണ് നമ്മളെല്ലാം എന്ന് പറഞ്ഞു. മാസങ്ങൾ കൂറായി. ഏതായാലും കഴിഞ്ഞ ദിവസം ഇദ്ദേഹം പോകുന്നത് കൊണ്ട് അദ്ദേഹത്തിന് N.O.C കിട്ടി എന്നു പറഞ്ഞു. ഏതായാലും നന്നായി. N.O.C എങ്ങനെ കിട്ടി എന്നുള്ളത് എനിക്കറിയാം. ആ N.O.C കൊടുത്തതിന് അദ്ദേഹത്തോട്

പ്രത്യേകം നന്ദി പറയാനാണ് ഞാൻ ഇത്ര കഷ്ടപ്പെട്ട് ഈ സമയം നിങ്ങളുടെ ഈ പരിപാടിയിൽ പങ്കെടുത്തത്. ഒന്ന് ജീവിതത്തിൽ സത്യസന്ധത നമ്മളെപ്പോഴും പാലിക്കണം. നിങ്ങളൊരു വ്യക്തിയെയും ഞാൻ നിങ്ങളോട് പറയാം ഒരു വ്യക്തിയേയും ചിരിച്ചുകൊണ്ടും അല്ലെങ്കിൽ ഈ പാൽപ്പഞ്ചിരി കൊണ്ടും ജീവിതത്തിലെ ഈ ലാളിത്യം കൊണ്ടും മുണ്ടടുത്തു കൊണ്ടും ജീവിക്കുന്നവരാണ് ലക്ഷോപക്ഷം മനുഷ്യരെന്ന് ആരും ധരിക്കേണ്ട, അങ്ങനെ ആരും ധരിക്കേണ്ട. അതു കൊണ്ട് ഞാൻ അദ്ദേഹത്തോട് ഒരു നന്ദി പറയുകയാണ്. കാരണം, ഞാനൊരാൾക്കും അദ്ദേഹത്തോട് ഉന്നയിച്ചപ്പോൾ അദ്ദേഹം അത് നടത്തി കൊടുത്തു. കുറച്ചു മാസായെങ്കിലും നന്ദി പറയാണ്. കണ്ണൂരിൽ അദ്ദേഹം നടത്തിയ പോലെയായിരിക്കുന്നത് അദ്ദേഹം പോകുന്ന സ്ഥലത്ത് നടത്തേണ്ടത്. കാരണം ഇതു പോലെ ആയിരിക്കുന്നത് അദ്ദേഹം അവിടെ നടത്തേണ്ടത്. നിങ്ങൾ മെച്ചപ്പെട്ട രീതിയിൽ കൂടുതൽ മെച്ചപ്പെടണം എന്നാണ് തോന്നുന്നത്. മെച്ചപ്പെട്ട രീതിയിൽ നിങ്ങൾ ആളുകളെ സഹായിക്കുക. കാരണം, നിങ്ങളുടെയെല്ലാം നമ്മുടെയെല്ലാം ചുറ്റും ആളുകളുണ്ട്. വളരെ കൈയർ ചെയ്യണം. കാരണം ഇത് നമ്മുടെ ജീവിതം സർക്കാർ സർവ്വീസാണ്. ഒരു നിമിഷം മതി നമ്മളെ സിവിൽ ഡെത്ത് സംഭവിക്കാൻ. ഒരു നിമിഷം മതി. ആ നിമിഷത്തേക്കുറിച്ച് ഓർത്തുകൊണ്ട് നമ്മളെല്ലാവരും കയ്യിൽ പേന പിടിക്കണം. ഇതൊന്നുമാത്രമാണ് ഞാൻ ഇപ്പോ നിങ്ങളോട് പറയുന്നത്. വെയിറ്റ് ഒരു രണ്ടു ദിവസം കാത്തിരിക്കണം. ഇത്രമാത്രം പറഞ്ഞുകൊണ്ട് ഞാൻ ഇവിടെനിന്ന് ഇറങ്ങും. മറ്റൊന്നുമല്ല, ഉപഹാരം സമർപ്പിക്കുന്ന ഒരു സമയത്തെ ഈ ചടങ്ങിൽ ഞാനുണ്ടാകരുതെന്ന് ഞാൻ ആഗ്രഹിക്കുന്നുണ്ട്. അതിന് പ്രത്യേക കാരണങ്ങൾ കൂടിയുണ്ട്. ആ കാരണങ്ങൾ രണ്ടു ദിവസം കൊണ്ട് നിങ്ങളെല്ലാം അറിയും.

18. As per the above, one can see that the accused started the speech by saying that, she came to know about the farewell function while she was passing through, and that itself shows that she was never invited to this function. So, her case that she was invited to this

function by the District Collector is totally false. In the speech, she had made specific allegation against ADM. She had attributed extraneous consideration for issuance of NOC to Mr. Prasanth. At the end of the speech, she made a threatening remark that, "within two days, you all people will know the reasons". Immediately after the speech, she left the conference hall by saying that, "she wish that she should not be present when the memento is given to the ADM". So, the learned Public Prosecutor has submitted that going by the speech made by the accused, even a layman can understand that her intention was to insult and humiliate the ADM, in public. Her intention was to humiliate and insult ADM by making baseless allegations of corruption in the presence of his superior and subordinates. It is pertinent to note that, even without invitation, the accused came to the function and that too by inviting the Media to cover her speech in the function. Immediately after the speech, the recorded video was telecasted and also circulated in social media. It is pertinent to note that it was telecasted and circulated even at Pathanamthitta, the native place of ADM and where he was transferred. So, the intention of the accused was very clear that she wants to humiliate and insult ADM in public. This act of the accused amounts to instigation and thereby abetted the suicide of ADM. It is further submitted that, even if, the Investigating Officer has given notice to the accused to appear for questioning, she did not. That shows that she is not co-operating with the investigation. Though custodial interrogation is not required, that is not a ground to grant pre-arrest bail especially in a case of this nature. A very responsible person, the President of District Panchayath has committed the offence under Section 108 of BNS. The offence is very grave. If the

court is pleased to grant the relief of pre-arrest bail, there is every chance of influencing the witnesses and it may also give a wrong message to the society. Hence, the learned Public Prosecutor prays for dismissal of the petition.

19. The learned counsel who appeared for the wife of the deceased has also vehemently opposed the petition and submitted as follows:-

The submission of the learned counsel for the petitioner that Vigilance and Anti-corruption Bureau has initiated proceedings against the deceased is totally false. The allegation that Mr. Prasanth has given a complaint to the Vigilance Department and also to the Chief Minister is also false. No such complaint was produced before the court. The prosecution has no case that a Vigilance enquiry has been initiated. The accused being the President of District Panchayath has no authority to make any recommendation to ADM, that too regarding issuance of NOC for a petrol pump. As per the Constitution of India, President of District Panchayath was given certain powers in certain areas and which would not cover Petroleum. The learned counsel has argued that there is an unholy nexus between the accused and Prasanth. There is every reason to suspect that Mr. Prasanth is a binami. So, to reveal this fact, custodial interrogation of the accused is required. The act of the accused in attending the function, which is purely an inhouse function to give sendoff to a Government servant, and that too without invitation and by inviting Media, even a layman can understand that it was a pre-planned act of the accused to humiliate and insult the deceased in the presence of his superior and subordinates. She herself invited the local media Channel to cover the function. Immediately after the function, it was

telecasted in news Channels, she obtained the video from the Videographer and circulated in social media, she has even circulated the same at Pathanamthitta, the native place of the deceased and to that place he was transferred. So, it is a preplanned premeditated act of the accused. It amounts to instigation. The deceased being a person having good reputation and giving more value to his honour was compelled to take the extreme step. The learned counsel for the petitioner has argued that the petitioner never intended to drive the ADM to commit suicide. True, she may not have intended to drive the deceased to commit suicide. Going by (Sec.107 of IPC) Sec.45 of BNS, for instigation, intention is not necessary. The section has got three limbs and only for the third limb, the intention matters. For the first and the second limbs, i.e. instigation and criminal conspiracy, intention is immaterial. The learned counsel has submitted that, here the act of the accused was preplanned and premeditated and definitely, comes under the first limb. Her intention was to humiliate and insult the deceased in a function where she was not invited. The above act had driven the ADM to take the extreme step and the unfortunate incident happened. Simply because custodial interrogation is not required, the petitioner is not entitled for bail in a case of this nature. Hence, the learned counsel prays for dismissal of the petition. The learned counsel has also relied on the rulings, Chitresh Kumar Chopra vs. State (government of NCT Delhi) 2009 KHC 971. Sumithra Pradeep vs. Arun Kumar 2022 SCC online SC1529.

20. Here, the offence alleged is Sec.108 of BNS (Sec.306 of IPC). The Section reads as follows:

"If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

21. Sec.45 of BNS (Sec.107 of IPC) defines the abetment of a thing. It reads as follows:

"45. Abetment of a thing--A person abets the doing of a thing, who—

- (a) instigates any person to do that thing; or
- (b) engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or
- (c) intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

.....

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act."

22. Here, the allegation against the petitioner/accused is that she had abetted the suicide of Mr. Naveen Babu, ADM Kannur. Here, the admitted facts are:- the deceased Naveen Babu was working as

ADM, Kannur. He committed suicide in between 6p.m on 14.10.2024 and 8a.m on 15.10.2024, from his official residence near to the Women's College, Pallikunnu, Kannur. The deceased had got a transfer from Kannur to Pathanamthitta. On 14.10.2024, his colleagues and subordinates/staffs of Collectorate, Kannur had arranged a farewell function at Collectorate Conference hall, Kannur. There, the Chief Guest was the District Collector and Deputy Collector was the presiding officer. In that meeting, the petitioner/accused made a speech and raised specific allegation of corruption against the deceased ADM, regarding issuance of NOC to one Mr. Prasanth, for starting a petrol pump at Chengalayi. The accused did not wait till the end of function. At the end of her speech, she said that, "within two days, you people will know the reasons." She further stated that, "she does not want to be there at the time of giving memento to the deceased ADM". It is also an admitted fact that there was a file before the deceased ADM, with regard to issuance of NOC for a petrol pump for Mr. Prasanth at Chengalayi.

23. The specific allegation against the petitioner is that, she attended the farewell function, without invitation. But, the petitioner's case is that she attended the function as invited by the District Collector. Her case is that, on the same day morning, there was an official function for her and the District Collector. Both of them attended the function and they had an informal discussion. At that time, District Collector informed her that they have arranged a farewell function for the deceased at 3p.m at Collectorate Conference hall. It is her case that she had agreed to attend the function. So, as invited by the District Collector, she attended the function. Of-course, the learned counsel for the petitioner has submitted that, even if, she

was not invited, she being the President of the District Panchayath a public servant, there is nothing wrong in attending the function especially, when she is a crusader against corruption. She got a complaint of corruption against the deceased ADM. So, she attended the function and advised the Government servants not to repeat such instances. She made the comments bonafide. So, according to the learned counsel, whether she was invited or not, is immaterial. The learned Public Prosecutor has submitted that neither the District Collector nor the staff council members invited the petitioner for the function. It was an inhouse function purely private and not a public function. Going by the statements of witnesses, the District Collector, Deputy Collector and the staff, one can see that none of them invited the accused to this function. Even from the speech itself, one can see that the petitioner attended the function, uninvited as she starts her speech by saying that, "while passing through this way she came to know about this function".

24. As per the statement of District Collector, it can be seen that, in the function attended by the district collector and the petitioner in the morning, they had an informal discussion. At that time, the petitioner told the district collector that, "she had information that a file in ADM's section getting purposefully delayed related to petrol bunk NOC. She said she would presume the matter further." The collector asked if she had a formal written complaint from the applicant or any evidence to support the claims, to which she responded that she currently did not have any proof but would check with the complainant. The collector advised that without being personally sure of the allegation and without proper evidence, taking formal action on a mere hearsay allegation would not be feasible.

Then at 3:13 PM on the same day, she called the Collector and told that she would come to the Collectorate later, even if it was late. The collector told her that if it was regarding the allegation she had raised in the morning, it is probably not the appropriate time. At that time the collector believed that her intention was not to attend the ADM's farewell, but to continue the earlier conversation in his room. The Collector strongly dissuaded her as it would be embarrassing and pointless to discuss a hearsay matter over and again, especially since the ADM had already been transferred to Pathanamthitta. Then the farewell function started at 3:25 PM. As the event was entering its' final stage approximately around 3:40 PM, the petitioner entered the conference hall unannounced and initially signaled that she did not wish to speak. She was offered a chair by the Ddeputy Collector, who sat beside the Collector. Although the petitioner was uninvited to the meeting, the Collector formally acknowledged her presence as was mandated by the protocol to give due respect to the elected public representative. However, she then switched on the microphone near her by herself without formal invitation by the presiding officer, just before the memento distribution began and delivered some brief, impromptu remarks, beginning with the words, "I am just passing through and came to know about the function". She exited the hall immediately after her remarks around 3:55 PM.

25. So, going by above statement of District Collector and the CD file, it is crystal clear that the function on 14.10.2024 at 3p.m, was purely an inhouse function for giving farewell to the deceased. It was arranged by staff council and District Collector was the guest. It was purely a private function not a public function. The accused attended this function, uninvited.

26. Of-course, the learned counsel for the petitioner has submitted that, being a crusader against corruption and the President of the District Panchayath, on getting information that a farewell function is being arranged for the ADM, who got transfer to Pathanamthitta, she attended the function as she got a complaint of corruption against ADM. Her intention was to advise the Government servants not to repeat such instances, but give better service to the public. She never intended to drive the deceased to commit suicide. She never intended to humiliate or insult the deceased ADM. Her comments were bonafide. But, the learned Public Prosecutor as well as the counsel for the wife of the deceased, has submitted that the allegation of corruption against the ADM is totally false. The contention of the petitioner is that one Mr. Prasanth has given a complaint of corruption. It is her case that on 09.10.2024, she was told by Mr. Prasanth that, he had given one lakh rupees as bribe to the ADM. It is her case, that based on that, Mr. Prasanth has given a complaint to the Chief Minister and also to the Vigilance Department. Vigilance Department has started enquiry. But, the prosecution has no such case. The petitioner did not produce any document. So, it is argued that the allegation of corruption against the deceased is totally false. It is an admitted fact that, the accused contacted the deceased and recommended for issuance of NOC to Mr. Prasanth. It is her case that Mr. Prasanth approached her and sought her help as there is delay in getting NOC from ADM. So, based on that request, she made recommendation to the ADM. As there was delay, she again contacted. Mr. Prasanth got NOC after about six months. The argument of the learned Public Prosecutor and the counsel for the wife of the deceased is that, since the deceased did not act on the

recommendation of the accused and there was delay in issuing NOC, she with the intention of humiliating and insulting the deceased, came to the function on 14.10.2024, preplanned and premeditated. It is evident from the statement of the Bureau Chief of Kannur Vision, a local Television Channel, that the accused herself contacted him and requested to cover the farewell function of the deceased. It is an admitted fact that the function was covered by this Channel, Kannur Vision and telecasted. The video clipping was taken by the accused and circulated in different groups. So, it is argued that her intention was to insult or humiliate the deceased ADM. Even before the closure of this function, the video was telecasted. But, the argument of the learned counsel for the petitioner was that the petitioner being a crusader against corruption, wanted to fight against corruption. Her act of telecasting and sharing the video of the function was with good intention to warn all the similar minded Government servants all over Kerala.

27. I am not inclined to accept the above submission of the learned counsel for the petitioner. Here, admittedly, the accused attended a purely private inhouse function of giving farewell to the deceased, uninvited. Prima facie, there is evidence to show that she attended the function by inviting the local Television Channel, Kannur Vision to cover the function. It is beyond my comprehension, what is the business of this petitioner/accused to attend a purely private inhouse function, uninvited and that too by inviting media. The above fact clearly shows the malafide on the part of the petitioner. She has attended the function, uninvited, invited media people, got her speech recorded, telecasted and circulated even at Pathanamthitta, the native place of the deceased and where he was transferred.

28. Now, the question is, whether the above act of the accused amounts to instigation and abetment of the suicide of the deceased ADM. The learned counsel for the petitioner has submitted that, even if, the entire allegation is accepted as true, the above acts of the accused does not amounts to instigation and abetment of suicide. She made the comments bonafide, against corruption. Such a person cannot be sent to Jail for the sole reason that she fought against corruption by making such comments. The learned counsel has invited my attention to the ruling reported in AIR 2010 SC 1446 Chitresh Kumar Chopra vs. State (Govt.of NCT of Delhi) where the apex court has held that,

“Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an “instigation” may have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.”

The learned counsel also relied on the ruling reported in AIR 2019 SC 43 M. Arjunan vs. The State. There, the Hon’ble apex court has held that,

“The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide.”

Regarding abetment, the learned counsel has relied on the ruling reported in AIR 2015 SC 3351 State of Kerala & Others Vs. Unnikrishnan Nair & Others. There, the Hon'ble apex court by relying on its earlier ruling, Kishori Lal v. State of M.P (2007) 10 SCC 797 stated that, "The word "instigate" literally means to provoke, incite, urge on or bring about by persuasion to do anything. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107." There is no quarrel regarding the above propositions made by the Hon'ble Supreme Court. But, I am of the opinion that the above rulings will not help the petitioner herein. As rightly pointed out by the learned counsel for the wife of the deceased, Sec.45 of BNS (Sec.107 of IPC) has got three limbs. First one, instigates any person to do a thing, second one is engages with one or more other person or persons in any conspiracy for the doing of that thing and the third one is intentionally aids, by any act or illegal omission, for the doing of that thing. It is crystal clear that the legislature has not put the word "intention" in the first and the second limbs. The intention comes only in the third limb. So, one can see that even if the instigation was without any intention, it amounts to abetment. Even if, a person engages with another in any conspiracy for the doing of a thing also, the intention is immaterial. Here, in this case, it is true, that the accused never intended to drive the deceased to commit suicide. But, the circumstances, prima facie shows her clear intention to humiliate and insult the ADM in front of his superior, subordinates and general public. The word "instigate" literally means to provoke, incite, urge on or bring about by persuasion to do anything. So, one can see that, her acts definitely amounts to instigation as contemplated in clause (a) of Section 45 of BNS. It is

pertinent to note that, in the rulings relied on by the learned counsel for the petitioner, the circumstances are entirely different. There were no pre-planned, premeditated act of the accused. Here, the admitted facts and circumstances, Prima facie clearly show that the act of the accused was preplanned and premeditated. It is well evident that she herself contacted the Bureau Chief of the local Television Channel and requested to cover the function, in which she was not even invited. She got it circulated and published. So, the above act is clearly an instigation.

29. The learned counsel for the petitioner has further invited my attention to the rulings reported in 1995 Supp (3) SC.438 Prahalad Das vs. State of M.P and Others, 2017 (5) KHC 543 Sindhu Paul and Ors vs. State of Kerala and Ors., Shyamkrishna K.R vs. State of Kerala (Bail Application No.2578 of 2024 of Hon'ble High Court of Kerala) and submitted that, even in case where the accused told the victim, "to go and die," that will not attract Sec.306 of IPC. Even if, the superior officer had taken any action or warned or made any comments, that will not attract Sec.306 of IPC. Even in the case of Teachers punishes or warn the students, that will not amounts to instigation or abetment. The remarks that is likely to cause harassment in ordinary course will not come within the purview of instigation. But, going by the above rulings of the Hon'ble apex court and High Court, the circumstances of above cases are entirely different from the scenario of present case. In none of the above, there was allegation of pre-planned premeditated act. Here, prima face, there is clear evidence that the accused attended the farewell function of the deceased, uninvited and that too by she herself arranging a local Television Channel. So, it is a pre-planned and premeditated act

of the accused. So, in my view, as pointed out by the learned counsel for the wife of the deceased, the above rulings will not help the petitioner herein.

30. The Learned Counsel for the petitioner has relied on the Judgment in Amudha vs. The State represented by the Inspector of Police & Anr.(Criminal Appeal No. 1642/2024 Hon'ble Supreme Court of India) and submitted that mere allegation of harassment is not sufficient to attract section 306 of IPC. It has to be shown that there is a positive action in proximity to the time of occurrence on the part of the accused that led a person to commit suicide. Here the alleged comments were made by the petitioner on 14-10- 2024 at around 3:00 PM. The deceased committed suicide only on the very next day. So, it is argued that there is no any positive action in proximity to the suicide of the deceased. I am not inclined to accept the above submission also because, in that particular case, as stated earlier there is no pre planned premeditated act. There, the Apex Court has relied on two earlier rulings of the Apex Court. It is true, that there should be a positive action in proximity to the time of occurrence on the part of the accused that led a person to commit suicide. Here, the petitioner had made the allegation of corruption against the deceased and even threatened that, within two days all of you will know the reasons. She got her speech recorded and telecasted in television. Got the video clip and posted in social media. Going by the CD, one can see that the deceased was about to leave to his native place, Pathanamthitta in the train at night on 14-10-24. His wife was waiting for him at Chengannoor railway station. But, he did not board the train. Then, on the next day, from his official quarters at Kannur, he committed suicide. I am of the opinion that, the acts of the

petitioner here in, that is raising allegation of corruption in the presence of his superior and subordinates, recording her speech and publishing the same in television and social media is having the close proximity of the occurrence of this case, that is suicide of the diseased.

31. The learned counsel for the petitioner has further invited my attention to the ruling reported in Murali and Ors.V. The State of Kerala and Ors. and submitted that, "the essence of the offence of abetment to commit suicide is not what the deceased felt but what the accused intended". So, the argument was that here, the deceased might have had a bad feeling about the comments made by the accused. But, the comments were made bonafide, against corruption. She had no bad intention. There is no quarrel regarding the proposition made by the Hon'ble Supreme Court. Here, the entire circumstance is different from that case. Here, the accused insulted the deceased in a function where she was not even invited. She herself arranged the Media people and circulated the video of her speech. As submitted by the learned Public Prosecutor and the counsel for the wife of the deceased, her intention is well evident.

32. In AIR 2011 SC 312 Siddharam Saltingappa Mhetre v. State of Maharashtra, the Apex Court has laid down the factors that are to be taken into consideration while disposing Anticipatory Bail Application.

i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

- iii. The possibility of the applicant to flee from justice;
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of S.34 and S.149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused.
- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
- x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

33. The Hon'ble Supreme Court, in Naranjan Singh V. Prabhakar Rajaram Kharote AIR 1980 SC 785 & Ouran V. Rambilas 2001(6) SCC 338, has repeatedly held that, "while considering, the anticipatory bail application, the courts are not expected to discuss the merits or demerits of the evidence collected against the accused. A detail examination has also to be avoided". So, a detail examination of the evidence collected is avoided. The discussion was made only to find out whether there is a prima facie case. Going by AIR, 2011 SC 312(supra), the court need to consider the gravity of the offence, antecedents, chance of absconding, repetition of crime, tampering of evidence, prima facie case etc. Here, going by the entire CD file and from the admitted facts, prima facie, there are sufficient materials to presume that the petitioner/accused instigated the deceased to commit suicide. Here, one of the submission of the learned counsel for the petitioner was that, the petitioner made bonafide comments based on the complaint received regarding corruption against the deceased. Though, she had a case that one Mr. Gangadharan and Prasanth made allegation of corruption against the deceased and she had pinpointed the allegation of bribe made by Mr. Prasanth for obtaining NOC for petrol pump, but she did not produce the copy of the complaint. She has produced only the copy of the alleged complaint given by Mr. Gangadharan. But, as rightly pointed out by the learned Public Prosecutor and the counsel for the wife of the victim, there is no allegation of bribe in that complaint. The learned counsel for the wife of the deceased has submitted that, there is absolutely no evidence to show that the deceased received bribe and he did any form of corruption. In the contrary, the statements of witnesses so far recorded would clearly go to show that he had got a clear image

among his colleagues and subordinates. He is a straightforward person having good reputation. Of-course, going by the statement of District Collector, one can see that after the function on 14.10.2024, the deceased met him from his chamber. The deceased said to the District Collector that he committed a mistake. Of-course, it cannot be taken that it is an admission of receiving bribe or other form of corruption. Even otherwise, if, the deceased is a person who has no integrity and had received bribe, the petitioner/accused on getting the information ought to have set the law in motion by approaching appropriate law enforcing authority. In this country, we have all the machineries and authorities to handle such instances. No person is expected to take the law into hands. What was expected from a public servant like the petitioner herein who has got vast experience, is to approach the proper forum or authority. Instead of doing so, under the guise of fighting against corruption, she did the alleged act, pre-planned and premeditated with the intention of insulting the deceased. As submitted by the learned Public Prosecutor and the learned counsel for the wife of the deceased, whenever she got information about corruption by the deceased, she would have approached the Vigilance Department or Police. She did not do so. Instead of that, she opted to humiliate and insult the deceased in the presence of his superior and subordinates. She got her speech in the function recorded by local Television Channel and circulated the video even at Pathanamthitta, the native place of the deceased. This insult and humiliation driven the deceased to take the extreme step. From the available materials in this case, there is nothing to attribute any corruption or absence of integrity to the deceased. So, a person of integrity who was insulted and humiliated in the presence of his

superior and subordinates, had committed suicide as he had no other option.

34. The learned counsel for the petitioner has submitted that, the deceased was not a layman. He was a high ranking officer in Revenue Department. The petitioner made the comments in his presence and if the allegations were wrong, he would have reacted then and there. He would have made a complaint against the petitioner. So, the deceased had several options. So, according to the learned counsel, that shows that comments made by the petitioner did not instigate the deceased to commit suicide. His argument was that based on the complaint given by Mr. Prasanth, the Vigilance and Anti-corruption Bureau has initiated proceedings against the deceased. In anticipation of the consequence, the deceased committed suicide. But, as submitted by the learned counsel for the wife of the deceased, no documents produced to show that there was an enquiry by the Vigilance Department, based on the alleged complaint given by Mr. Prasanth. Here, the prosecution has no case that Vigilance department has started enquiry against the deceased. So, one can see that there is prima facie case against the petitioner. Of-course, she is a responsible public servant, the President of District Panchayath, now resigned. There is no likelihood of repetition of similar offence and flee from justice. But, from the other parameters and the factors to be considered as held by the Hon'ble Supreme Court and High Court, one can see that the petitioner's role in the alleged offence is very evident. Prima facie, there are sufficient materials to presume that she has committed the above offence. She is a political leader having influence. So, the chance of influencing the witnesses also cannot be ruled out.

35. It is argued that custodial interrogation of the petitioner is not required as there is nothing to be recovered. So, she is entitled for bail. Regarding this aspect, the learned counsel for the wife of the deceased has invited my attention to the ruling reported in Sumitha Pradeep vs. Arun Kumar 2022 SCC Online SC 1529 and submitted that simply because custodial interrogation is not required, the petitioner is not entitled for Anticipatory Bail. There, the apex court has held as follows:

“In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. 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. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.” So, going by the above ruling of the apex court,

one can see that simply because custodial interrogation is not required, the accused cannot be granted anticipatory bail.

36. Another submission of the learned counsel for the petitioner was that the petitioner herein is a lady having lot of responsibilities. She has got a family consists of husband, daughter, aged and sick parents. She has to look after them. The learned counsel has invited my attention to the first proviso of Section 480 of BNSS and submitted that, going by the above proviso, except in the case of offence punishable with death or life imprisonment, if the accused is a lady or child or sick or infirm, he is entitled for bail. In this regard, the learned counsel has also invited my attention to the rulings reported in 2015 KHC 3015 Pawanbala Wife of Prem Chand v. State of H.P and Bhavani Revanna vs. State of Karnataka. Going by the above rulings, one can see that, there is no proposition that in every case if the accused is a lady, she is entitled for bail. There, the circumstances of the case are entirely different from the present one. Going by the above proviso of Section 480 of BNSS itself, one can see that the legislature has used the word 'may' instead of 'shall'. So, it is the discretion of the court by considering the facts and circumstances of each case. Here, in this case, I am of the opinion that the above rulings will not help the petitioner. Here, the circumstances itself disentitle her the relief of pre-arrest bail. The act of the petitioner is a preplanned and premeditated one with the sole intention of insulting and humiliating a highly reputed high ranking Government official. As submitted by the learned Public Prosecutor, if such a person is granted the relief of pre-arrest bail, definitely it may give a wrong message to the society. By considering her political power, one can

presume that there is every possibility of influencing the witnesses by using her influence.

37. In *Jai Prakash Singh V. State of Bihar & Others* 2012 KHC 4187, the Apex Court has held that, "There's no substantial difference between s. 438 & S. 439 Cr.P.C so far as appreciation of the case as to whether or not a bail is to be granted, is concerned. However, neither anticipatory bail nor regular bail can be granted as a matter of rule. The anticipatory bail being an extraordinary privilege should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after proper application of mind to decide whether it is a fit case for grant of anticipatory bail."

38. So, from the above discussion and by considering the entire aspects including the gravity of the offence, the active role played by the accused, I am of the opinion that this is not a fit case to grant the relief of pre-arrest bail. The petitioner could not make out a case that this is an exceptional case and she is entitled for pre-arrest bail.

Accordingly, the petition is dismissed.

(Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open Court, this the 29th day of October, 2024).

Sd/-
SESSIONS JUDGE

Copy to:-

1. The SHO, Kannur Town Police Station.
- ✓ 2. The Petitioner.

Typed by : Satheesan.E.P
Compared by : Reena.E.O

/ TRUE COPY /
(By Order)
SHERISTADAR
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