



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 11TH DAY OF DECEMBER 2024 / 20TH AGRAHAYANA,

1946

CRL.MC NO. 4707 OF 2024

CRIME NO.621/2021 OF MANNANCHERRY POLICE STATION, ALAPPUZHA

AGAINST THE ORDER DATED 05.04.2024 IN Cr1.M.P NO.527 OF
2024 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS COURT - III,
ALAPPUZHA

ARISING OUT OF THE ORDER DATED 24.12.2022 IN Cr1.M.P
No.4934/2022 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS
COURT- III, ALAPPUZHA

PETITIONER/RESPONDENT:

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

BY SRI.NOUSHAD K.A. , PUBLIC PROSECUTOR

RESPONDENT/PETITIONER:

RAJENDRA PRASAD@ANDI PRASAD
AGED 43 YEARS, S/O BABU,
KAVACHIRA VEEDU,
MANNANCHERRY PANCHAYATH, WARD-4,
PONNAD P.O.,ALAPPUZHA, PIN - 688538

BY ADVS.

SRI.SASTHAMANGALAM S.AJITH KUMAR (SR.)
SRI.SREEJITH S. NAIR



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SRI.V.S.THOSHIN
SRI.SATHEESH MOHANAN
SMT.MAHIMA
SRI.AKHIL SUSEENDRAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29.11.2024, ALONG WITH Crl.MC NOS.4713, 4716, 4739, 4749,
4752, 4762, 4767 & 4798 of 2024 THE COURT ON 11.12.2024 PASSED
THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 11TH DAY OF DECEMBER 2024 / 20TH AGRAHAYANA,

1946

CRL.MC NO. 4713 OF 2024

CRIME NO.621/2021 OF MANNANCHERRY POLICE STATION, ALAPPUZHA

AGAINST THE ORDER DATED 05.04.2024 IN Cr1.M.P NO.528 OF
2024 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS COURT - III,
ALAPPUZHA

ARISING OUT OF THE ORDER DATED 24.12.2022 IN Cr1.M.P
No.5099/2022 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS
COURT- III, ALAPPUZHA

PETITIONER/RESPONDENT:

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

BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR

RESPONDENTS/PETITIONER/ACCUSED 2:

- 1 VISHNU
AGED 27 YEARS, S/O KANNAN,
THYVELI VEEDU,
AVALOOKUNNU P.O., KOMALAPURAM,
ALAPPUZHA, PIN - 688006
- 2 SANAND
AGED 36 YEARS
KUNNUMMELVELI VEEDU,
PONNAD P.O,ALAPPUZHA, PIN - 688538



BY ADVS.
SRI. B.RAMAN PILLAI (SR.)
SRI.S.RAJEEV
SRI.V.VINAY
SRI.M.S.ANEER
SRI.SARATH K.P.
SRI.ANILKUMAR C.R.
SRI.K.S.KIRAN KRISHNAN
SMT.DIPA V.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29.11.2024, ALONG WITH Cr1.MC NO.4707 of 2024 & CONN. CASES,
THE COURT ON 11.12.2024 PASSED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 11TH DAY OF DECEMBER 2024 / 20TH AGRAHAYANA,

1946

CRL.MC NO. 4716 OF 2024

CRIME NO.621/2021 OF MANNANCHERRY POLICE STATION, ALAPPUZHA

AGAINST THE ORDER DATED 05.04.2024 IN Cr1.M.P NO.535 OF
2024 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS COURT - III,
ALAPPUZHA

ARISING OUT OF THE ORDER DATED 29.11.2022 IN Cr1.M.P
No.4717/2022 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS
COURT- III, ALAPPUZHA

PETITIONER/RESPONDENT:

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

BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR

RESPONDENT/PETITIONER/ACCUSED 10:

MURUKESAN
AGED 29 YEARS, S/O SETHURAJ,
KOLLELI VEEDU,
KOKKOTHAMANGALAM P O, THANEERMUKKAM,
CHERTHALA, ALAPPUZHA, PIN - 688527

BY ADVS.
SRI.SASTHAMANGALAM S.AJITH KUMAR (SR.)
SRI.SREEJITH S. NAIR



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SRI.V.S.THOSHIN
SRI.SATHEESH MOHANAN
SMT.MAHIMA
SRI.AKHIL SUSEENDRAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29.11.2024, ALONG WITH Crl.MC NO.4707 of 2024 & CONN. CASES,
THE COURT ON 11.12.2024 PASSED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 11TH DAY OF DECEMBER 2024 / 20TH AGRAHAYANA,

1946

CRL.MC NO. 4739 OF 2024

CRIME NO.621/2021 OF MANNANCHERRY POLICE STATION, ALAPPUZHA

AGAINST THE ORDER DATED 05.04.2024 IN Cr1.M.P NO.534 OF
2024 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS COURT - III,
ALAPPUZHA

ARISING OUT OF THE ORDER DATED 21.02.2023 IN Cr1.M.P
No.586/2023 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS COURT-
III, ALAPPUZHA

PETITIONER/RESPONDENT:

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

BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR

RESPONDENT/PETITIONER/9TH ACCUSED:

SREENATH
AGED 33 YEARS, S/O CHANDRASEKHARAN PILLAI
VAISHNAVAM HOUSE
EASTERN SIDE OF AMRITHANANDAMAYI MADOM
VALLIKKAVU KLAPPANA PO
KOMALAPURAM VILLAGE, WARD 12



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KLAPPANA PANCHAYATH
KARUNAGAPPALLY TALUK,
KOLLAM, PIN - 690546

BY SRI.SASTHAMANGALAM S.AJITH KUMAR (SR.)
ADV SREEJITH S. NAIR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29.11.2024, ALONG WITH Crl.MC NO.4707 of 2024 & CONN. CASES,
THE COURT ON 11.12.2024 PASSED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 11TH DAY OF DECEMBER 2024 / 20TH AGRAHAYANA,

1946

CRL.MC NO. 4749 OF 2024

CRIME NO.621/2021 OF MANNANCHERRY POLICE STATION, ALAPPUZHA

AGAINST THE ORDER DATED 05.04.2024 IN Cr1.M.P NO.529 OF
2024 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS COURT - III,
ALAPPUZHA

ARISING OUT OF THE ORDER DATED 24.12.2022 IN Cr1.M.P
No.5107/2022 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS
COURT- III, ALAPPUZHA

PETITIONER/COMPLAINANT:

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

BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR

RESPONDENT/ACCUSED 3:

ABHIMANUE
S/O UTHAMAN,
KADUVETTIYIL VEEDU
WARD-7, MARARIKULAM SOUTH PANCHAYATH
ALAPPUZHA, PIN - 688522

BY ADVS.
SRI.SASTHAMANGALAM S.AJITH KUMAR (SR.)



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SRI.SREEJITH S. NAIR
SRI.V.S.THOSHIN
SRI.SATHEESH MOHANAN
SMT.MAHIMA
SRI.AKHIL SUSEENDRAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29.11.2024, ALONG WITH Cr1.MC NO.4707 of 2024 & CONN. CASES,
THE COURT ON 11.12.2024 PASSED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 11TH DAY OF DECEMBER 2024 / 20TH AGRAHAYANA,

1946

CRL.MC NO. 4752 OF 2024

CRIME NO.621/2021 OF MANNANCHERRY POLICE STATION, ALAPPUZHA

AGAINST THE ORDER DATED 05.04.2024 IN Cr1.M.P NO.530 OF
2024 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS COURT - III,
ALAPPUZHA

ARISING OUT OF THE ORDER DATED 03.12.2022 IN Cr1.M.P
No.4771/2022 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS
COURT- III, ALAPPUZHA

PETITIONER/RESPONDENT:

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

BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR

RESPONDENT/PETITIONER:

ATHUL
AGED 28 YEARS
OTTAKKANDATHIL HOUSE,
NORTH ARYAD P O, KOMALAPURAM VILLAGE,
WARD NO. 14, MANNANCHERY PANCHAYATH,
ALAPPUZHA, PIN - 688538

BY ADVS.



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SRI.SASTHAMANGALAM S.AJITH KUMAR (SR.)
SRI.SREEJITH S. NAIR
SRI.V.S.THOSHIN
SRI.SATHEESH MOHANAN
SMT.MAHIMA
SRI.AKHIL SUSEENDRAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29.11.2024, ALONG WITH Crl.MC NO.4707 of 2024 & CONN. CASES,
THE COURT ON 11.12.2024 PASSED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 11TH DAY OF DECEMBER 2024 / 20TH AGRAHAYANA,

1946

CRL.MC NO. 4762 OF 2024

CRIME NO.621/2021 OF MANNANCHERRY POLICE STATION, ALAPPUZHA

AGAINST THE ORDER DATED 05.04.2024 IN Cr1.M.P NO.531 OF
2024 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS COURT - III,
ALAPPUZHA

ARISING OUT OF THE ORDER DATED 07.12.2022 IN Cr1.M.P
No.4845/2022 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS
COURT- III, ALAPPUZHA

PETITIONER/RESPONDENT/COMPLAINANT:

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

BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR

RESPONDENT/PETITIONER/ACCUSED NO.6:

DHANEESH
S/O DHANAPALAN,
KIZHAKKEVELIYAKATH VEEDU,
SOUTH ARYAD P.O.
ALAPPUZHA, PIN - 688521

BY ADVS.
SRI.S.RAJEEV
SRI.V.VINAY



SRI.M.S.ANEER
SRI.SARATH K.P.
SRI.ANILKUMAR C.R.
SRI.K.S.KIRAN KRISHNAN
SMT.DIPA V.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29.11.2024, ALONG WITH Cr1.MC NO.4707 of 2024 & CONN. CASES,
THE COURT ON 11.12.2024 PASSED THE FOLLOWING:



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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 11TH DAY OF DECEMBER 2024 / 20TH AGRAHAYANA,

1946

CRL.MC NO. 4767 OF 2024

CRIME NO.621/2021 OF MANNANCHERRY POLICE STATION, ALAPPUZHA

AGAINST THE ORDER DATED 05.04.2024 IN Cr1.M.P NO.532 OF
2024 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS COURT - III,
ALAPPUZHA

ARISING OUT OF THE ORDER DATED 18.11.2022 IN Cr1.M.P
No.4552/2022 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS
COURT- III, ALAPPUZHA

PETITIONER/RESPONDENT/COMPLAINANT:

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

BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR

RESPONDENT/PETITIONER/ACCUSED NO.7:

SREERAJ P.K.
AGED 29 YEARS, S/O PUSHAPARAJAN
PADINJAREVELI,
MANNANCHERRY PO,ALAPPUZHA, PIN - 688538

BY ADVS.
SRI.SASTHAMANGALAM S.AJITH KUMAR (SR.)
SRI.SREEJITH S. NAIR
SRI.V.S.THOSHIN



2024:KER:93644

SRI.SATHEESH MOHANAN
SRI.MAHIMA
SRI.AKHIL SUSEENDRAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29.11.2024, ALONG WITH Crl.MC NO.4707 of 2024 & CONN. CASES,
THE COURT ON 11.12.2024 PASSED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 11TH DAY OF DECEMBER 2024 / 20TH AGRAHAYANA,

1946

CRL.MC NO. 4798 OF 2024

CRIME NO.621/2021 OF MANNANCHERRY POLICE STATION, ALAPPUZHA

AGAINST THE ORDER DATED 05.04.2024 IN Cr1.M.P NO.533 OF
2024 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS COURT - III,
ALAPPUZHA

ARISING OUT OF THE ORDER DATED 20.10.2022 IN Cr1.M.P
No.2959/2022 IN SC NO.527 OF 2022 OF ADDITIONAL SESSIONS
COURT- III, ALAPPUZHA

PETITIONER/RESPONDENT/COMPLAINANT:

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

BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR

RESPONDENT/PETITIONER/ACCUSE NO.8:

PRANAV
AGED 28 YEARS, S/O VIJAYAN,
PRANAVAM ,
WARD NO.2, MANNANCHERRY PANCHAYATH,
PONNAD P.O.,ALAPPUZHA, PIN - 688538

BY ADVS.
SRI.S.RAJEEV



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SRI.V.VINAY
SRI.M.S.ANEER
SRI.SARATH K.P.
SRI.ANILKUMAR C.R.
SRI.K.S.KIRAN KRISHNAN
SMT.DIPA V.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29.11.2024, ALONG WITH Crl.MC NO.4707 of 2024 & CONN. CASES,
THE COURT ON 11.12.2024 PASSED THE FOLLOWING:

**BECHU KURIAN THOMAS, J.**

**Crl.M.C Nos.4707, 4713, 4716, 4739, 4749,
4752, 4762, 4767 & 4798 of 2024**

Dated this the 11th day of December, 2024

ORDER

These petitions seek to quash the bail granted to ten accused in S.C. No.527/2022 on the files of the Additional Sessions Court-III, Alappuzha. The orders granting bail are challenged as being perverse, issued without any application of mind and in an arbitrary exercise of judicial discretion.

2. The prosecution case relates to the murder of a person by the name of Shan on 18.12.2021, due to a political enmity. According to the prosecution, the accused, who are members of an organisation called RSS, had, due to an enmity, in connection with an attack on two other persons, apart from the murder of an RSS leader earlier, conspired to commit the murder of the said Sri. Shan. Pursuant to the said conspiracy, accused 2 to 6 formed themselves into an unlawful assembly and after following the deceased in a vehicle and collided with his scooter at 5.50 PM on 18.12.2021. When Sri. Shan fell down he was brutally attacked,



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inflicting serious injuries and later, at 11.30 PM on the same day, he succumbed to the injuries and the accused thus committed the offences under sections 120(b), 109, 115, 143, 147, 148, 149, 324 and 302 of the Indian Penal Code, 1860 apart from section 27(1) of the Arms Act, 1959.

3. Pursuant to the registration of Crime No.621/2021 of Mannancherry Police Station, the first accused was arrested in the early morning of the next day i.e, 19.12.2021, while accused 2, to 6 were arrested on 25-12-2021 and accused 7 and 8 were arrested on 26-12-2021. The ninth and tenth accused were arrested on 06/02/2023 and 18/10/2022 respectively. Thereafter, the accused were granted bail on different dates on the basis of applications filed by them separately. Accused 1 to 4 were granted bail on 24.12.2022, the fifth accused on 3.12.2022, the sixth accused on 7.12.2022, the seventh accused on 18.11.2022, the eighth accused on 20.10.2022, the ninth accused on 21.02.2023, and the tenth accused on 29.11.2022. The following tabular column depicts the petitions in which bail was granted to each of the accused, the petitions which were preferred by the State to cancel the bail and the petitions filed by the State before this Court in relation to the respective accused.



Crl.M.P granting bail	Crl.M.P (to cancel bail)	Crl.M.C in the High Court
4934/2022	527/2024	4707/2024 (1 st Accused)
5099/2022	528/2024	4713/2024 (2 nd & 4 th Accused)
5107/2022	529/2024	4749/2024 (3 rd Accused)
4771/2022	530/2024	4752/2024 (5 th Accused)
4845/2022	531/2024	4762/2024 (6 th Accused)
4552/2022	532/2024	4767/2024 (7 th Accused)
2959/2022	533/2024	4798/2024 (8 th Accused)
586/2023	534/2024	4739/2024 (9 th Accused)
4717/2022	535/2024	4716/2024 (10 th Accused)

4. The State has approached this Court in these petitions filed under section 482 Cr.P.C. challenging the order granting bail and the order refusing to cancel the bail.

5. Sri. K.A.Noushad, the learned Public Prosecutor appearing on behalf of the State vehemently argued that bail was granted to the ten accused perversely, without bearing in mind the legal principles that govern the grant, especially in a heinous crime of this nature. According to the learned Public Prosecutor, the trial court while granting bail did not even record a single reason. It was further submitted that the mere length of custody cannot be a ground for granting bail, especially in a murder case and therefore the order of the trial court is perverse. It was also submitted that the Sessions



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Court failed to bear in mind that bail granted to a co-accused was not a reason to enlarge the other accused on bail, and further that, the non-opposition by the Public Prosecutor was also not a ground to grant bail. He relied upon the decisions in **Kanwar Singh Meena v. State of Rajasthan and Another** (2012) 12 SCC 180, **Rizwan Akbar Hussain Syed v. Mehmood Hussain and Another** (2007) 10 SCC 368, **Brij Nandan Jaiswal v. Munna** (2009) 1 SCC 678, **Rajesh Ranjan Yadav alias Pappu Yadav v. CBI** (2007) 1 SCC 70, and **Marakkar v. State of Kerala** (2022 (5) KLT 716) to support his contentions.

6. Sri. B.Raman Pillai, the learned Senior Counsel instructed to appear on behalf of the second accused, submitted inter alia that the application for cancellation of bail itself was filed after more than fourteen months without any aggravating circumstances, and hence, bail already granted cannot be cancelled. It was also submitted that there was no perversity in the impugned order.

7. Sri. Sasthamangalam S. Ajith Kumar, the learned Senior Counsel, instructed to appear on behalf of the first, third, fifth, seventh, ninth and tenth accused also contended that the delay in filing the application for cancellation itself must persuade this Court to desist from interfering with the impugned orders. The learned



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Senior Counsel also submitted that merely because a better order could have been issued while granting bail is not necessarily a reason to cancel what has already been granted especially in the absence of any supervening circumstances. It was further submitted that the eleventh accused was granted bail by this Court which has not even been attempted to be cancelled by the State and hence that factor must also weigh with this Court.

8. Sri. S. Rajeev, learned counsel appearing for accused 4, 6, and 8, submitted that the application for cancellation itself is malafide as it is connected with the date of conviction in another crime. He further submitted that till date, the charge has not even been framed, and therefore, there is no possibility of an immediate trial. In such circumstances, the bail already granted ought not to be cancelled. The learned Counsel referred to the decisions in **Totaram v. State of Madhya Pradesh** 2023 LiveLaw (SC) 289, **Myakala Dharmarajan v. State of Telengana** AIR 2020 SC 317 and **Union of India v. K.A.Najeeb** AIR 2021 SC 712 in support of his contentions.

9. I have considered the rival contentions.

10. Bail already granted can be cancelled if the bail order is wholly unjustified, patently illegal, or perverse as held in **Puran v.**



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Rambilas and Another [(2001) 6 SCC 338]. The parameters for the grant of bail and cancellation of bail are entirely different. While granting bail, the court should exercise its discretion in a judicious manner and not as a matter of course. Though a detailed examination of evidence and elaborate documentation of the merits of the case need not be undertaken at the stage of granting bail, there is certainly a need to indicate reasons for concluding why bail was being granted, particularly where the accused is charged with a serious offence. It has been held in the decision in **Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav and Another** [(2004) 7 SCC 528] that any order devoid of such reasons would suffer from non-application of mind. Further, a court granting bail must necessarily consider among other circumstances, the following factors, before granting bail;

- (a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.
- (b) Reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant.
- (c) Prima facie satisfaction of the court in support of the charge.
(See *Ram Govind Upadhyay v. Sudarshan Singh* (2002) (3) SC 598) and *Puran v. Rambilas* (2001) (6) SCC 338).

11. In **Brij Nandan Jaiswal v. Munna** (2009) 1 SCC 678] it was observed that while granting bail, particularly in serious cases



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like murder, some reasons justifying the grant are necessary.

12. The circumstances arising in the instant cases have to be analysed bearing in mind the above-referred principles. The accused in the crime can be divided into two separate categories for the purpose of these applications for cancellation of bail. In the first category falls the seventh, eighth, ninth and tenth accused apart from the first accused who are allegedly, the conspirators of the crime. In the second category falls accused two, three four, five and six - the persons against whom the specific overt act of murdering the deceased is alleged.

13. The seventh, eighth, ninth and tenth accused were granted bail by separate orders dated 18-11-2022, 20-10-2022, 21-02-2023 and 29-11-2022 respectively. The aforementioned accused were enlarged on bail after giving independent reasons. The order granting bail to the eighth accused was a common order relating to four accused and the learned Sessions Judge denied bail to three other accused but directed the release of the eighth accused. A reading of the said order and the fact that in a common order, few accused of the same crime were declined bail and one accused was granted bail, indicates an independent application of mind and exercise of discretion after considering various aspects.



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14. Moreover, in the orders granting bail to accused 7 to 10, the learned Sessions Judge had considered the merits of the allegations against each one of them and even reckoned the circumstances relating to each of those accused. In this context, it is apposite to note that the eleventh accused was granted bail by a learned Single Judge of this Court on 22-11-2022 and the prosecution has not even sought cancellation of the bail granted to the said accused. Of course the said accused was roped in as per section 212 IPC. Taking note of all the above circumstances, this Court finds no reason to interfere with the order granting bail to the seventh, eighth, ninth and tenth accused.

15. A reading of the orders granting bail to accused 1 to 6 reveals that the two grounds on which the learned Sessions Judge granted bail were that the accused had been in custody for about one year and that the learned Public Prosecutor did not oppose the application. The first accused is roped in as the conspirator while accused 2 to 6 are alleged to be the persons who had actually committed the ghastly murder. The other conspirators of the crime who are arrayed as accused 7 to 11 were granted bail by different orders after specifying reasons. As far as the first accused is concerned, the order dated 24-12-2022 merely considered the



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length of custody, absence of regular functioning of the jurisdictional court and non-opposition of the public prosecutor as grounds for granting bail. Considering the nature of the allegations against the first accused, and taking into reckoning the delay in filing the application for cancellation of bail, I am of the view that the order granting bail to the first accused also does not warrant any interference.

16. However, accused 2 to 6 stand on a different footing. The said five accused are alleged to have waited in a car for the deceased, with weapons in their hands, and after creating a collision with the scooter driven by the deceased, they got out of their vehicles and attacked him with weapons. The bail applications of accused 2, 4 and 6 were considered by the learned Sessions Judge in Crl.M.P No. 2721/2022. Despite noticing that there is no regular sitting in the court, by order dated 20-10-2022, their applications were dismissed. The apprehension of the prosecution that there is every chance for the accused to influence the witnesses and tamper with the evidence was found justified while rejecting their bail applications earlier.

17. Though the allegations against accused 2 to 6 indicate specific overt acts allegedly committed by them, the learned



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Sessions Judge granted bail without reference to any of the circumstances that should have been borne in mind while granting bail in a heinous crime as murder. The possibility of the accused influencing the witnesses or tampering with the evidence was not borne in mind by the Court. In fact, as noticed in the preceding paragraph, a few weeks before granting bail, the same court felt that the accused may tamper with the evidence and influence the witnesses. No change of circumstance has been pointed out nor has it been even referred to for taking a different view or to change the earlier findings. In this context, the observation of the Supreme Court in **Rajesh Ranjan Yadav alias Pappu Yadav v. CBI** [(2007) 1 SCC 70] that there is no absolute rule that a long period of imprisonment does not necessarily result in grant of bail as it depends on the facts and circumstances of each case, assumes relevance.

18. The factors that ought to be borne in mind while considering an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) the nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v)



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character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail. The aforesaid propositions have been laid down in the decisions in **Prahlad Singh Bhati v. NCT, Delhi and Another** [(2001) 4 SCC 280] and **State of U.P through CBI v. Amarmani Tripathi** [(2005) 8 SCC 21]. However, the orders granting bail to accused 2 to 6 in the instant case do not reflect any consideration of the above-referred parameters, by the court.

19. A reading of the order granting bail to accused 2 to 6 reflects that the accused were enlarged on bail without any basis, that too, in a mechanical manner. In the decision in **Rizwan Akbar Hussain Syed v. Mehmood Hussain and Another**, [(2007) 10 SCC 368] it was observed that where it appears to the Superior Court that the Court granting bail acted on irrelevant materials, the order for cancellation of bail can be made. Similarly in **Kanwar Singh Meena v. State of Rajasthan and Another** [(2012) 12 SCC 180], it was observed that when the order granting bail suffers from serious infirmities, the High Court can cancel the bail.

20. In this context, the contention of the learned Counsel for



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the petitioners regarding the delay in filing the application for cancellation of bail ought to be considered. It is true that after the grant of bail, one year had elapsed before the prosecution filed the application for cancellation. The Special Public Prosecutor who filed the application for cancellation of bail is stated to be a counsel for the accused in an alleged consequential murder which ended in conviction and death sentence for many of the accused. Though the aforesaid contention was impressive at first blush, the same is not a reason to ignore the perversity in the impugned order. Merely because the application was filed after a period of 12 months cannot efface the perversity in the impugned orders granting bail to accused 2 to 6.

21. In view of the above discussion, the bail granted to accused Nos.2 and 4 in Crl.MP No.5099/2022, accused No.3 in Crl.MP No.5107/22, accused No.5 in Crl.MP No.4771/22 and accused No.6 in Crl.MP No.4845/22, all in S.C. No.527/2022 before the Additional Sessions Court-III, Alappuzha are hereby set aside, while the orders granting bail to accused 1 and 7 to 10 in S.C. No.527/2022 are not interfered with.

22. Notwithstanding the above, if in case any fresh application for regular bail is filed by accused Nos.2 to 6, the jurisdictional court



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will be entitled to consider the same independently on its own merits, untrammelled by any observation made in this order.

Accordingly, Crl.M.C No.4713/2024, Crl.M.C No.4749/2024, Crl.M.C No.4752/2024 and Crl.M.C No.4762/2024 are allowed, while Crl.M.C No.4707/2024, Crl.M.C No.4767/2024, Crl.M.C No.4798/2024, Crl.M.C No.4739/2024 and Crl.M.C No.4716/2024 are dismissed.

**Sd/-
BECHU KURIAN THOMAS
JUDGE**

vps



APPENDIX OF CRL.MC 4707/2024

PETITIONER'S/S' ANNEXURES

Annexure 1 THE TRUE COPY OF THE COMMON ORDER DATED
24.12.2022 BAIL TO THE 1ST ACCUSED IN CRL
MP NO.4934/2022 IN SC NO.527/2022 OF THE
ADDITIONAL SESSIONS JUDGE-III,ALAPPUZHA.

Annexure 2 THE TRUE COPY OF THE COMMON ORDER DATED
05.04.2024 IN CRL M P NO.527/2024 IN SC
NO.527/2022 OF THE ADDITIONAL SESSIONS
JUDGE-III,ALAPPUZHA



APPENDIX OF CRL.MC 4713/2024

PETITIONER'S/S' ANNEXURES

Annexure 1 THE TRUE COPY OF THE COMMON ORDER DATED
24.01.2022 BAIL TO THE ACCUSED NOS.2 & 4
IN CRL.MP NO.5099/2022 IN SC NO.527/2022
OF THE ADDITIONAL SESSIONS JUDGE
-III,ALAPPUZHA

Annexure 2 THE TRUE COPY OF THE COMMON ORDER DATED
05-04-2024 IN CRL.MP.NO.528/2024 IN SC
NO.527/2022 OF THE ADDITIONAL SESSIONS
JUDGE-III,ALAPPUZHA



APPENDIX OF CRL.MC 4716/2024

PETITIONER'S/S' ANNEXURES

Annexure 1 THE TRUE COPY OF THE ORDER DATED 29.11.2022 IN CRL MP NO.4717/2022 IN SC NO.527/2022 OF THE ADDITIONAL SESSIONS JUDGE-III,ALAPPUZHA GRANTING BAIL TO THE ACCUSED.

Annexure 2 THE TRUE COPY OF THE ORDER DATED 05.04.2024 IN CRL M P NO.535/2024 IN SC NO.527/2022 OF THE ADDITIONAL SESSIONS JUDGE-III,ALAPPUZHA



APPENDIX OF CRL.MC 4739/2024

PETITIONER'S/S' ANNEXURES

Annexure 1 TRUE COPY OF THE ORDER DATED 21-02-2023 IN
CRL MP 586/2023 IN SC NO.527/2022 OF THE
SESSIONS JUDGE ALAPPUZHA

Annexure 2 TRUE COPY OF THE COMMON ORDER DATED
5-04-2024 IN CRL MP 534/2024 IN SC
NO.527/2022 OF THE ADDITIONAL SESSIONS
JUDGE III ALAPPUZHA



APPENDIX OF CRL.MC 4749/2024

PETITIONER'S/S' ANNEXURES

Annexure 1 THE TRUE COPY OF ORDER DATED 24.12.2022
BAIL TO THE 3RD ACCUSED IN CRL. MP
NO.5107/2022 IN SC NO.527/2022 OF THE
ADDITIONAL SESSIONS JUDGE - III,
ALAPPUZHA.

Annexure 2 THE TRUE COPY OF THE COMMON ORDER DATED
05.04.2024 IN CRL.MP NO.529/2024 IN SC
NO.527/2022 OF THE ADDITIONAL SESSIONS
JUDGE-III, ALAPPUZHA.



APPENDIX OF CRL.MC 4752/2024

PETITIONER'S/S' ANNEXURES

Annexure 1 THE TRUE COPY OF THE ORDER DATED
03.12.2022 IN CRL.MP NO. 4771/2022 IN SC
NO. 527/2022 OF THE ADDITIONAL SESSIONS
JUDGE - III, ALAPPUZHA GRANTING BAIL TO
THE ACCUSED.

Annexure 2 THE TRUE COPY OF THE COMMON ORDER DATED
05.04.2024 IN CRL.MP NO. 530/2024 IN SC
NO. 527/2022 OF THE ADDITIONAL SESSIONS
JUDGE - III, ALAPPUZHA.



APPENDIX OF CRL.MC 4762/2024

PETITIONER'S/S' ANNEXURES

Annexure I THE TRUE COPY OF THE ORDER DATED
07.12.2022 IN CRL.M.P NO 4845/2022 IN S.C.
NO.527/2022 OF THE ADDITIONAL SESSIONS
JUDGE-III, ALAPPUZHA.

Annexure II THE TRUE COPY OF THE COMMON ORDER DATED
05.04.2024 IN CRL.MP NO.531/2024 IN SC NO
527/2022 OF THE ADDITIONAL SESSIONS JUDGE-
III, ALAPPUZHA.



APPENDIX OF CRL.MC 4767/2024

PETITIONER'S/S' ANNEXURES

Annexure I THE TRUE COPY OF THE ORDER DATED
18.11.2022 IN CRL.M.P.NO.4552/2022 IN SC
NO.527/2022 OF THE ADDITIONAL SESSIONS
JUDGE-III,ALAPPUZHA

Annexure II THE TRUE COPY OF THE COMMON ORDER DATED
05.04.2024 IN CRL.M.P.NO.532/2024 IN
S.C.NO.527/2022 OF THE ADDITIONAL SESSIONS
JUDGE-III,ALAPPUZHA



APPENDIX OF CRL.MC 4798/2024

PETITIONER'S/S' ANNEXURES

Annexure I THE TRUE COPY OF THE COMMON ORDER DATED
20.10.2022 IN CRL MP NO.2959/2022 IN SC
NO.527/2022 OF THE ADDITIONAL SESSIONS
JUDGE-III, ALAPPUZHA GRANTING BAIL TO THE
ACCUSED

Annexure II THE TRUE COPY OF THE COMMON ORDER DATED
05.04.2024 IN CRL MP NO. 533/2024 IN SC
NO.527/2022 OF THE ADDITIONAL SESSIONS
JUDGE -III,ALAPPUZHA