



2026:KER:19646

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

THURSDAY, THE 5TH DAY OF MARCH 2026/14TH PHALGUNA, 1947

CRL.A NO. 221 OF 2026

CRIME NO.38/2026 OF CHITTAR POLICE STATION, PATHANAMTHITTA

AGAINST THE JUDGMENT DATED 11.02.2026 IN CRL.MP (COMPLAINT)

NO.1 OF 2026 OF DISTRICT COURT& SESSIONS COURT, PATHANAMTHITTA

APPELLANT/PETITIONER/ACCUSED:

K.A. ASHOKAN
AGED 53 YEARS
S/O. AYYAPPAN, KOLLAMMAVUKUDIYIL HOUSE
NERIYAMANGALAM PO, NERIYAMANGALAM VILLAGE,
KOTHAMANGALAM TALUK ERNAKULAM DISTRICT,
PIN - 686693

BY ADVS.
SRI.SADCHITH.P.KURUP
SHRI.SIVA SURESH
SMT.B.SREEDEVI
SMT.ATHIRA VIJAYAN
SHRI.VYSHNAV S. NAIR
SMT.AKSHARA RAVI

RESPONDENT/RESPONDENT/COMPLAINANT/VICTIM:

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
PATHANAMTHITTA THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031

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SRI.RENJIT GEORGE, SR.PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 27.02.2026,
THE COURT ON 05.03.2026 DELIVERED THE FOLLOWING:



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JUDGMENT

Dated this the 5th day of March, 2026

Order dated 11.02.2026 in Crl.M.P.No.1/2026 on the files of the Special Court for the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as “the SC/ST (POA) Act”, for short) cases, Pathanamthitta, arising out of crime No.38/2026 of Chittur Police Station, is under challenge in this appeal filed under Section 14A of the SC/ST (POA) Act at the instance of the sole accused.

2. Heard the learned counsel for the appellant/accused and the learned Public Prosecutor on 27.02.2026. Perused the verdict under challenge and the relevant records placed by the learned Public Prosecutor.

3. On 26.02.2026, the defacto complainant appeared in person and zealously opposed grant of regular bail to the appellant on the submission that she had bitter lascivious



experience from this appellant, even prior to this occurrence, and that one Senior Officer had also filed complaint against the appellant before the Internal Committee for sexual abuse. Apart from that, another staff member also suffered similarly.

4. Here, the prosecution alleges commission of offences punishable under Sections 74, 75(2) and 79 of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred as 'BNS' for short) as well as under Sections 3(1)(w)(i), 3(1)(w)(ii) and 3(2)(va) of the SC/ST (POA) Act by the accused. The prosecution case is that, the accused, who has been working as the Deputy Range Officer, Kochukoickal Forest Station, and who is not a member of either the scheduled caste or the scheduled tribe community, sexually assaulted the defacto complainant, a member of the scheduled caste community, who has been working as a Beat Forest Officer at the office of the Deputy Range Officer, Kochukoickal, at about 13.30 hours on 04.02.2026 at the mess hall of the said office. The specific



allegation is that, the accused caught hold of the defacto complainant and sexually abused her.

5. The learned counsel for the appellant argued that the appellant is innocent and that the allegations have been made to disarm him from performing his duties, under him, where the defacto complainant has been working as a Beat Forest Officer. It is also submitted that the defacto complainant raised these allegations since she has been reluctant to do her works under the appellant as directed by him. Thus, raising plea of innocence, highlighting the custody of the appellant from 05.02.2026 and the progress of the investigation, the learned counsel for the appellant pressed for grant of regular bail.

6. The learned Public Prosecutor opposed grant of bail to the appellant, highlighting the seriousness of the offences and the premature stage of the investigation. He further submitted that premature release of the appellant



would be fatal to the investigation and the same also would go against the victim, since he has been working in a higher position as Deputy Range Forest Officer, where the victim also has been working.

7. On perusal of the First Information Statement given by the defacto complainant as on 04.02.2026, at about 16.30 hours, it is stated that the defacto complainant has been working as a Beat Forest Officer. While performing her duties at the office of the Deputy Range Forest Officer, Kochukoickal, on 04.02.2026, she was invited by one Amina madam to have lunch at the mess. Since there was no power supply during the relevant time, two Beat Forest Officers were taking food at the sit-out. Amina madam was engaged in serving food. The defacto complainant engaged in supplying curries. At this juncture, the accused, Sri.K.A.Ashokan (Deputy Range Forest Officer), came to the mess and without attempting to have the food, he approached her and caught hold of her private parts,



taking advantage of the non-availability of light for want of electric supply, while she was engaged in serving curries using a torch light. She stated further that the occurrence was witnessed by Amina madam and she also questioned the same.

8. In the First Information Statement, it has been further stated that similar experience was faced by Soumya, a Beat Forest Officer, at the instance of the accused. It is further stated that when he was engaged in field work and performing duties at the office, the accused used to abuse her with double meaning and used to look at her lasciviously.

9. On perusal of the First Information Statement, the allegations necessary to constitute the offences alleged are well made out, *prima facie* and the absolute innocence canvassed by the appellant's counsel is found to be unacceptable.

10. In this case, even though non-information of the



grounds of arrest also has been placed as a reason to grant bail, since the prosecution records justified compliance of the pre-arrest formalities, the learned counsel for the appellant not pressed for the challenge on this ground. However, it is noticed that, because of failure on the part of the Investigating Officers to intimate the grounds of arrest to the accused, or to the relatives, friends, or a nominee of the accused in writing and for other reasons in the matter of non-compliance of pre-arrest requirements, many accused have been released after arrest though they got involved in very serious crimes, finding their arrest as illegal. It is perceivable that some Investigating Officers are failing to comply with the pre-arrest formalities for want of proper understanding of law and some among them are doing it intentionally to help the accused to get bail even in very serious cases with ulterior motives. This Court had occasion to deal with cases registered against the Investigating Officers, who demanded and accepted bribe for



doing such things to help the accused to escape, and were punished under the Prevention of Corruption Act. Therefore, the matter is to be seriously taken note of to address the issue with a view to safeguard the interest of the justice and to protect the rule of law.

11. In view of the above, there shall be a specific direction to all criminal courts in the State to ensure that, before considering remand application and ordering remand, compliance with the pre-arrest formalities must be ensured, as mandated in the decisions reported in **Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254** (“Prabir Purkayastha”), **Vihaan Kumar v. State of Haryana, 2025 5 SCC 799** (“Vihaan Kumar”), **Mihir Rajesh Shah v. State of Maharashtra, 2025 SCC OnLine 256** (“Mihir Rajesh Shah”) and **Joginder Kumar v. State of UP & Ors., 1994 4 SCC 260** (“Joginder Kumar”), which are encapsulated as under:

- (1) If a person is arrested on a warrant, the grounds for reasons for the arrest is the warrant itself; if the



warrant is read over to him, that is sufficient compliance with the requirement that he should be informed of the grounds for his arrest.

- (2) If a person is arrested without a warrant, he must be told why he has been arrested. If he is arrested for committing an offence, he must be told that he has committed a certain offence for which he would be placed on trial. In order to inform him that he has committed a certain offence, he must be told of the acts done by him which amounts to the offence. He must be informed of the precise acts done by him for which he would be tried; informing him merely of the law applicable to such acts would not be enough.
- (3) The purpose of inserting Section 50A of the CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would



otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detinue, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal.

- (4) The requirement of informing the arrested person the grounds of arrest, in the light of and under



Article 22(1) of the Constitution of India, is not a mere formality but a mandatory binding constitutional safeguard which has been included in Part III of the Constitution under the head of Fundamental Rights. Thus, if a person is not informed of the grounds of his arrest as soon as may be, it would amount to the violation of his fundamental rights thereby curtailing his right to life and personal liberty under Article 21 of the Constitution of India, rendering the arrest illegal.

- (5) There is a significant difference in the phrases “reasons for arrest” and “grounds of arrest” and it can be held that the “reasons for arrest” as indicated in the arrest memo are purely formal parameters viz. to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the investigating officer.



These reasons would commonly apply to any person arrested on charge of a crime, whereas the “grounds of arrest” would be required to contain all such details in hand of the investigating officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the “grounds of arrest” would invariably be personal to the accused and cannot be equated with the “reasons of arrest” which are general in nature.

- (6) Following the ratio of the decision in **Manubhai Ratilal Patel v. State of Gujarat** reported in **[(2013) 1 SCC 314]**, it is obligatory on the part of the Magistrate/the Judge concerned to satisfy himself whether the materials placed before him justify the remand.
- (7) The arrested person must be well equipped with the information not only about his arrest, but also the reasons and grounds thereof, prior to his production before the Magistrate, so as to enable him to effectively defend himself and oppose police and judicial custody and even press for bail.
- (8) As held in the order of the Hon’ble Apex Court, dated



05.02.2026 in CrI.A.No.701/2026, it is incumbent upon the trial Courts dealing with criminal proceedings, faced with such situations, to inform the accused of their right to legal representation and their entitlement to be represented by legal aid counsel in the event they cannot afford a counsel. The trial Courts shall record the offer made to the accused in this regard, the response of the accused to such offer and also the action taken thereupon in their orders, before commencing examination of the witnesses, This procedure requires to be adopted and put in practice scrupulously.

12. It is specifically ordered that before ordering remand, the learned Magistrate or the learned Special Judge shall get an endorsement in the proceedings sheet stating that the above pre-arrest formalities have been complied with and the accused has no objection in this regard, on personally satisfying compliance of the same and the same shall be recorded in the remand order. In the event of non-compliance, the Magistrate or the Special Judge, as the case may be, must ensure compliance of the formalities at the helm of the Investigating Officer and



remand to be considered only after ensuring compliance of the formalities. Therefore, the Magistrate or the Special Judge, as the case may be, on noting deliberate intention on the part of the arresting/Investigating Officer in non-complying with the pre-arrest requirements, shall recommend disciplinary proceedings against the arresting/Investigating Officer, without fail.

13. Coming back, taking note of the progress of investigation and the status of the accused as a first time offender, I am inclined to set aside the order of the learned Special Judge, rejecting regular bail to the accused.

14. In the result, the criminal appeal stands allowed and the order impugned stands set aside. The appellant is enlarged on regular bail on the following conditions:

- i. The appellant shall be released on bail on his executing bond for Rs.1,00,000/- (Rupees one lakh only), with two solvent sureties, each for the like amount to the satisfaction of the Special Court concerned.
- ii. The appellant shall not intimidate the witnesses or tamper with evidence. He shall co-operate with the investigation and shall be available for interrogation.



- iii. The appellant also shall appear before the Investigating Officer as and when directed.
- iv. The appellant shall not directly or indirectly, make any inducement, threat or promise to any person, including the defacto complainant, acquainted with the facts of this case, so as to dissuade him from disclosing such facts to any police officer.
- v. The appellant shall not disturb the defacto complainant in any manner during the currency of bail hereby granted, if any such event reported or came to the notice of this Court, the same alone is a reason to cancel the bail hereby granted at the instance of the Special Court or by this Court.
- vi. The appellant shall not involve in any other offence during the currency of bail and any such event, if reported or came to the notice of this court, the same shall be a reason to cancel the bail hereby granted at the instance of the Special Court or by this Court.

Registry is directed to forward a copy of this judgment to all the criminal courts in the State of Kerala for strict compliance, without fail, to avoid challenge against arrest on the ground of non-compliance, as mandated by the Hon'ble



Supreme Court in the decisions referred hereinabove.

Registry is further directed to forward a copy of this judgment to the Director General of Police, Thiruvananthapuram, with request to communicate the same to all Investigating Officers/Station House Officers to take note of the seriousness of compliance with the pre-arrest formalities and the consequences of its non-compliance to avoid non-compliance of the pre-arrest formalities in future.

**Sd/-
A. BADHARUDEEN
JUDGE**

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