

ABC 2025 (II) 614 Ker  
ACQUITTAL & BAIL CASES  
HIGH COURT OF KERALA

(Bechu Kurian Thomas,J.)

Criminal Appeal No. 8964 OF 2025

Decided On 18 August 2025

APARNA NAIR

- Appellant(s).

Versus

STATE OF KERALA & OTHERS

- Respondent(s).

**Law Covered:-** (A) Code of Criminal Procedure, 1973 - S. 438 (Bharatiya Nagarik Suraksha Sanhita, 2023 - S. 483) - Indian Penal Code, 1860 - Ss. 370, 120B, 420 r/w 34 (Bharatiya Nyaya Sanhita, 2023 - Corresponding sections) - Anticipatory Bail - Trafficking of persons - Criminal conspiracy - Cheating - Common intention - Prima facie not attracted - Anticipatory bail granted to co-accused - No necessity for custodial interrogation - Pre-arrest bail granted.

**Facts:-** The petitioner is the 2nd accused in the crime registered for the offences punishable under Sections 370, 120B and 420 r/w 34 of the Indian Penal Code, 1860. According to the prosecution, the accused had, after falsely promising employment for two children of the de facto complainant, trafficked them to United Arab Emirates on a visiting visa and provided them an employment in the workshop of the father of the 3rd accused and thereafter, provided them an apartment and after hiding some contraband in the car, managed to rope in the children of the de facto complainant in a crime under the Narcotic Drugs Statute of UAE and, had them arrested and imprisoned for 20 years and thereby committed the offences alleged. The accused 1 and 3 had already been granted anticipatory bail by the High Court, after noticing that the offence of trafficking of persons is not seen to be prima facie attracted. A reading of the FIR does not indicate any serious allegation against the petitioner who is arrayed as the 2nd accused. The main allegations are raised against accused 1 and 3. Though there is an allegation of conspiracy between all the accused, already accused 1 and 3 have been granted anticipatory bail and hence there is no reason to deny pre-arrest bail to the petitioner.

**Law of relief:-** Implication with the aid of Section 34, IPC - Allegations against other accused persons, already on anticipatory bail - Anticipatory bail granted.

**Counsel:-**

For Appellant(s): Shri. Sreehari Indukaladharan, Adv.

For Respondent(s): Sri. Noushad K.A. (Public Prosecutor)

**Cases Referred:-**

- a 1. *Sushila Aggarwal and Others v. State (NCT of Delhi) and Another: 2020 (5) SCC 1*

**ORDER**

*Bechu Kurian Thomas, J.:-*

- b 1. This bail application is filed under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS').
- c 2. Petitioner is the 2[nd] accused in Crime No.412 of 2024 of Pallikkal Police Station, Thiruvananthapuram, registered for the offences punishable under Sections 370, 120B and 420 r/w 34 of the Indian Penal Code, 1860 [for short, 'the IPC'].
- d 3. According to the prosecution, the accused had, after falsely promising employment for two children of the de facto complainant, trafficked them to United Arab Emirates [for short 'UAE'] on a visiting visa and provided them an employment in the workshop of the father of the 3rd accused and thereafter, provided them an apartment and after hiding some contraband in the car, managed to rope in the children of the de facto complainant in a crime under the Narcotic Drugs Statute of UAE and, had them arrested and imprisoned for 20 years and thereby committed the offences alleged.
- e 4. Heard the Sri.Sreehari Indukaladharan, the learned counsel for the petitioner as well as Sri.Noushad K.A., the learned Public Prosecutor.
- f 5. The learned counsel for the petitioner submitted that petitioner has been falsely arrayed as an accused and that he has no involvement in the alleged crime and, therefore, he may be granted anticipatory bail.
- g 6. The learned Public Prosecutor opposed the bail application and submitted that custodial interrogation is necessary.
- h 7. In *Sushila Aggarwal and Others v. State (NCT of Delhi) and Another, 2020 (5) SCC 1*, it was held that while considering whether to grant anticipatory bail or not, Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case. Grant of anticipatory bail is a matter of discretion and the kind of conditions to be imposed or not to be imposed are all dependent on facts of each case, and subject to the discretion of the court.
8. In the instant case, the prosecution has not been able to convince this Court of the necessity of custodial interrogation.
9. The petitioner is alleged to have, along with other accused, promised to provide an employment for the two children of the de-

facto complainant and trafficked them to 'UAE' on a visiting visa and provided them an employment in the workshop of the father of the 3rd accused and implicated them in a narcotic drugs crime. By an order dated 23.06.2025 in B.A. No. 5275 of 2025, the accused 1 and 3 have already been granted anticipatory bail by this Court, after noticing that the offence of trafficking of persons is not seen to be prima facie attracted. A reading of the FIR does not indicate any serious allegation against the petitioner who is arrayed as the 2nd accused. The main allegations are raised against accused 1 and 3. Though there is an allegation of conspiracy between all the accused, already accused 1 and 3 have been granted anticipatory bail and hence there is no reason to deny pre-arrest bail to the petitioner. The learned public prosecutor pointed out that petitioner had sent an amount of Rs. 15,000/- to the daughter-in-law of the complainant, however, that by itself do not indicate any involvement of the petitioner in the alleged crime of trafficking of persons. In such circumstances, I am of the view that the petitioner can be granted pre- arrest bail subject to conditions:-

Accordingly, this application is allowed on the following conditions:

(a) Petitioner shall appear before the Investigating Officer on 02.09.2025 and shall subject herself to interrogation.

(b) If after interrogation, the Investigating Officer proposes to arrest the petitioner, then, she shall be released on bail on her executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum before the Investigating Officer.

(c) Petitioner shall appear before the Investigating Officer as and when required and shall also co-operate with the investigation.

(d) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall she tamper with the evidence.

(e) Petitioner shall not commit any similar offences while she is on bail.

In case of violation of any of the above conditions or if any modification or deletion of the conditions are required, the jurisdictional Court shall be empowered to consider such applications, if any, and pass appropriate orders in accordance with law, notwithstanding the bail having been granted by this Court.

**Result:-** Application allowed. Anticipatory bail granted with conditions.

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