

IN THE SPECIAL COURT FOR THE TRIAL OF NIA CASES, ERNAKULAM

Present: Sri. Anil.K.Bhaskar, Judge for NIA Cases

Friday the 26th day of May, 2023/5th Jaishtha 1945

Crl M.P. No. 243/2023

in

SC.02/2023/NIA/KOC

Complainant : Union of India represented by National Investigation Agency, Kochi.

**By Sri. Ajithkumar.S
(Special Public Prosecutor, NIA) and
Sri. Sreenath.S (Public Prosecutor, NIA)**

Accused : Aboobacker Sidik @ Sidik Thottinkara (A52), Age 37/22, S/o Abdul (L) Ponnathkuzhiyil House, Thottinkara, Kuthuthala, Kodumunda, Pattambi, Palakkad.

By Adv. Sri. Satheesh.V.T.

This petition coming on for hearing before me on 26.05.2023 and the Court on the same day passed the following:

ORDER

1. This is an application filed by the investigating officer under Section 307 Cr.P.C. for tender of pardon to A52 Aboobacker Sidik @ Sidik Thottinkara.

2. **Facts and history of the prosecution case:-** The Popular Front of India (PFI), its office bearers, members and affiliates in Kerala have conspired to indulge in Unlawful Activities, by creating enmity between members of different religions and groups, prejudicial to maintenance of harmony, with intention to disrupt public tranquility and cause disaffection against India, propagating

alternative justice delivery system justifying the use of criminal force causing alarm and fear amongst general public, encourages vulnerable youths to join terrorist organisation including Lashkar-e-Taiba (LeT), Islamic State of Iraq and Syria (ISIS)/ Daesh and Al-Qaida and also conspired to establish Islamic rule in India by committing terrorist acts as a part of violent jihad. PFI also spreads dis-affection against India by wrongful interpretation of Government Policies to the particular section of people to create hatred against the State and its machinery.

3. Considering the nature and gravity of the offence, the Government of India, Ministry of Home affairs, CTCR Division issued order in F.No.11011/82/2022-NIA dated 16.09.2022, directing the NIA to investigate the matter. Accordingly, the case has been registered as RC.02/2022/NIA/KOC at NIA Police Station, Kochi on 19.09.2022 under sections 120B and 153A of IPC, Section 13, 18, 18B, 38 and 39 of Unlawful Activities (Prevention) Act against 15 accused persons, who are PFI the organisation and its office bearers and active members. Subsequently, as and when the involvement of some more persons were revealed out more persons were added as accused in this crime.

4. During investigation, NIA conducted search at various places related to the accused and seized many number of documents and material objects and seized documents contain highly incriminating materials related to the targeting of the prominent leaders of particular community.

5. According to NIA, PFI, its cadres and office bearers committed various murders in Kerala and outside Kerala with intension to create terror in the minds of

the particular community. Some of the victims of such murders did not even have any association or any previous engagement with PFI. These victims were randomly selected. Investigation further revealed that there exist secret wing of PFI in the name of Reporters to collect the details of the leaders of other community, recruitment and to impart physical training to PFI cadres for committing terror activities, and the involvement of PFI and its cadres/office bearers in various Unlawful Activities etc.

6. Investigation further revealed that the Srinivasan murder case (Crime No.318/2022 of Palakkad Town South P.S.) is a connected offence in terms of section.8 of NIA Act, therefore, the Government of India, Ministry of Home Affairs, CTCR Division, vide their Order No.11011/82/2022/NIA(Part) dated 19.12.2022 has directed the NIA to investigate the FIR No.318/2022 dated 16.04.2022 of Palakkad Town South PS, Kerala as per the provisions of section 8 of NIA Act, 2008. In continuation of the order issued by Government of India, on the request of NIA, Hon'ble High Court of Kerala transferred the case to this court to be investigated along with RC.02/2022/NIA/KOC.

7. Subsequently, all the accused in the Palakkad crime were arrayed as accused in RC.02/2022/NIA/KOC. The total number of accused arraigned in RC.02/2022/NIA/KOC is 68 out of which 55 accused were already arrested and are in judicial custody. Both crimes were investigated together. On completion of the investigation against A1 to A14, A16 to A19, A21 to A26, A29 to A40, A42 to A63 & A66, and after obtaining sanction from appropriate authorities, a consolidated final

report has been filed against above mentioned 59 accused persons on 17.03.2023 u/s.120B, 34, 109, 115, 118, 119, 143, 144, 147, 148, 449, 153A, 341, 302, 201, 212 r/w 149, 120B r/w 302 of IPC, Section 3(a) (b) (d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988, Section 13, 16, 18, 18A, 18B, 20, 22C, 23, 38 & 39 of Unlawful Activities (Prevention) Act, 1967 and section 25(1) (a) of Arms Act.

8. Acting upon the final report, cognizance was taken against the charge sheeted accused and the case against them is numbered as SC.02/2023 and further investigation against the non charge sheeted accused is going on.

9. In SC.02/2023 accused Aboobacker Sidik @ Sidik Thottinkara is ranked as A52. He was an accused in Palakkad crime also. Aboobacker Sidik @ Sidik Thottinkara was arrested in Palakkad crime on 19.09.2022 and formally arrested in NIA crime on 10.02.2023. Upon his production before the court he was remanded in judicial custody. Intermittently, he was given in police custody. He continues to be in judicial custody.

10. It is submitted that, during investigation A52 Aboobacker Sidik @ Sidik Thottinkara voluntarily expressed his desire to make a full and true disclosure of the whole of the facts and circumstances within his knowledge related to this case and to every other person concerned to this case, before a court, due to his internal feelings. Later on the application of the NIA, confessional statement of A52 Aboobacker Sidik @ Sidik Thottinkara was recorded u/s.164 of Cr.P.C. on 02.05.2023 by the learned Judicial First Class Magistrate-VIII, Ernakulam. He gave

a full and true disclosure of the whole of the circumstances within his knowledge related to the offences and to every person concerned. A52 Aboobacker Sidik @ Sidik Thottinkara is privy to the offence and has taken part in it.

11. It is submitted that the evidence of accused A52 Aboobacker Sidik@ Sidik Thottinkara is highly essential for providing evidence and establishing offences alleged against co-accused related to conspiracy in this case. Therefore, it is highly necessary that A52 Aboobacker Sidik@ Sidik Thottinkara may be tendered pardon and examined as witness in this case on the conditions as per secs.306 & 307 Cr.P.C. Hence this petition.

12. Upon issuance of production warrant A52 Aboobacker Sidik @ Sidik Thottinkara brought before this court. The copy of the petition served to the accused. The contents of the petition fully explained to A52 Aboobacker Sidik @ Sidik Thottinkara.

13. Thereafter the accused was examined by this court. From the answers given by him to the questions put by the court, I am satisfied that he voluntarily came forward to be an approver without any compulsion from any source. When asked, he expressed his willingness to accept pardon if tendered.

14. The confession made by A52 Aboobacker Sidik @ Sidik Thottinkara under Section 164 Cr.P.C will revealed out a larger criminal conspiracy at organisational level and sub conspiracies at local level and about the preparation, planning and the execution of crimes carried out, all in furtherance of the conspiracy agreement arrived at, and also about the role played by the co-accused

persons at various levels of the conspiracy and the subsequent activities carried out in furtherance of the conspiracy. On going through the materials available, this court is satisfied that, with a view to obtaining the evidence of persons supposed to have been directly or indirectly concerned in or privy to an offence to which Section 306 r/w 307 Cr.P.C is applicable, it is necessary to tender pardon to A52 Aboobacker Sidik @ Sidik Thottinkara.

15. By following the procedure prescribed, this court has tendered pardon to A52 Aboobacker Sidik @ Sidik Thottinkara on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relating to the offences and to every other person concerned. He was informed about the ingredients of Section 308 Cr.P.C.

16. A52 Aboobacker Sidik @ Sidik Thottinkara has accepted the pardon tendered by this court.

17. Section 306 (4) (b) says that the person who had accepted the tender of pardon shall, unless he is already on bail, be detained in custody until the termination of the trial. A52 Aboobacker Sidik @ Sidik Thottinkara being in judicial custody, his detention in custody shall be continued till the termination of the trial.

In the result, this petition is allowed as follows:

1. Pardon is tendered to A52 Aboobacker Sidik@ Sidik Thottinkara in SC.02/2023 on condition of making a full and true disclosure of the whole of the circumstances within his knowledge relating to the offence and to every other person concerned.

2. A52 Aboobacker Sidik @ Sidik Thottinkara has accepted the pardon tendered.
3. Issue a free copy of the order (proceedings) to the approver on proper acknowledgment.

Dictated to the Confidential Asst., typewritten by her directly to computer system, corrected and pronounced by me in open court on this the 26th day of May, 2023.

Sd/-
Anil.K.Bhaskar
Judge, Spl. Court for NIA Cases

Appendix: Nil

Id/-
Judge, Spl. Court for NIA Cases
(By Order)

//True Copy//

Sd/-
Sheristadar.