

**IN THE COURT OF THE ADDITIONAL SPECIAL SESSIONS JUDGE,  
(SPE/CBI)-III, ERNAKULAM**

Present :-

**SRI. K.K. BALAKRISHNAN, SPECIAL SESSIONS JUDGE.**  
Friday, the 26<sup>th</sup> day of May, 2023/ 5<sup>th</sup> Jyeshtha, 1945.

**Crl. M.P. No. 472 of 2023**  
in  
**S.C.01/2023**

**Petitioner/Accused No.1** M. Sivasanker, Aged 60 years,  
S/o N.D. Madhavan Nair,  
Devadarsana, Katturoad, Poojapura,  
Thiruvananthapuram District.

**Represented By** : Adv. John S. Ralph.

**Respondent:** Director of Enforcement,  
Government of India, represented by its  
Assistant Director,  
Cochin Zonal Office, Kanoos Castle,  
A.K. Sheshadri Road (Mullassery Canal  
Road West), Cochin – 682001.

**Represented By** : Adv.Govindu P. Renuka Devi.,  
Special Public Prosecutor.

This petition is filed under Section 439 of Cr.PC r/w S 45 of Prevention of Money Laundering Act praying this Court to grant bail to the petitioner.

This petition is coming on for hearing on 22.05.2023 and the Court on 26.05.2023 passed the following:-

**ORDER**

This petition is filed by A1 in the above matter U/s 439 of Cr.PC and prayed for interim bail for three months in the above matter for availing medical treatment including surgery for the petitioner.

2. Along with the petition the Order of Hon'ble Supreme Court dated 17.05.2023 in Special Leave Appeal (Crl.)5590/2023 also produced, in which the Hon'ble Supreme Court permitted the petitioner to approach this Court in the event of any emergency without waiting for the outcome of the Special Leave Petition.

3. The petitioner stated the allegations in the final report and produced his treatment records, Order of this Court dated 02.03.2023 in the Bail Application No. Crl.M.P.185/2023 and the Order of Hon'ble High Court of Kerala, challenging the dismissal of the said bail application by this Court. By the Order dated 13.04.2023 Hon'ble High Court of Kerala dismissed the Bail Appeal No.2166/2023 of the petitioner and confirmed the Order of this Court. In the present petition the treatment history of the petitioner also stated and attached copies of treatment records. He was a cancer survivor and surgery was conducted in the year 2005 after affecting cancer for right upper Jaw. He is also suffering form nasal block and spinal problems. Five reasons are stated as medical ground

for interim bail In paragraph 11 of the petition in which specifically stated that he needed full time care taker for daily activities and physiotherapy. The rehabilitation treatment will not be successful without 24 x 7 support of his family members. A surgery is to be conducted for the petitioner and physiotherapy is required for him for 3-6 months. So prayed to allow this petition.

4. Seriously opposing the petition, the investigating officer filed a reply in 33 pages describing the facts of this case and quoting many judgments of Hon'ble Supreme Court and various High Courts. The investigating officer submitted that foreign national involved in this case and in addition to the FIR registered by Vigilance and Anti Corruption Bureau, the Customs (Preventive) Commissionerate Cochin also registered case in the subject matter against the petitioner and other accused. The petitioner and other accused agreed to pay upfront commission in the execution of Life Mission Project of Government of Kerala. The bank statement revealed that ₹ 5.25 crore to the Federal bank account and ₹ 2.25 crore to the Axis bank account were transferred from the bank account of UAE Consulate Thiruvananthapuram on 01.08.2019 and that amount subsequently withdrawn by A7 and handed over that amount as an upfront commission for allocating the contracts for construction of houses in the Life Mission project. The investigating

officer described the involvement of the petitioner in the money trial involved in this case and repeated the facts stated by the prosecuting agency in the reply against the previous bail application, CMP185/2023. The appeal against the order of this Court was dismissed by Hon'ble High Court of Kerala. The petition filed against the Order of Hon'ble High Court of Kerala is pending before the Hon'ble Supreme Court . There is no merit in the petition and prayed to dismiss it.

5. Heard both sides.

6. The learned counsel for the petitioner repeated the same facts argued by him in the previous bail application. He has further submitted that the petitioner is facing serious health issues and needed emergency treatment from Cosmopolitan Hospital, Thiruvananthapuram. Hon'ble Supreme Court in the above stated order given specific direction to consider the bail application and the present deteriorated health condition is sufficient to meet the emergency requirement in the Order of Hon'ble Supreme Court and therefore prayed to allow interim bail for the petitioner for a period of three months.

7. Vehemently opposing the petition the learned Special Public Prosecutor submitted that there is no merit in the petition. All the treatment records produced by the petitioner are already considered by this Court as well as the Hon'ble High Court. So on the same ground the

petitioner can not seek same relief in this Court. The petitioner is not ready to undergo any treatment provided by the jail authorities. So there is no substance in the submission of the petitioner's side and prayed to dismiss the petition.

8. Considering the arguments of the petitioner's side the present petition is filed for the treatment of him. The treatment record produced as annexures in the petition are already considered by this Court and there after Hon'ble High Court of Kerala and found that he cannot be released on bail on medical ground. The learned counsel for the petitioner admitted that same medical reason is one of the ground raised in the Special Leave Petition filed by the petitioner before the Hon'ble Supreme Court. This Court as well as Hon'ble High Court given specific direction to the jail authority to provide adequate treatment for the petitioner. Now the petitioner wanted to go a particular hospital in Thiruvananthapuram and he is not ready to undergo treatment from Government Medical College Hospital, Ernakulam. The learned counsel for the petitioner explained that the petitioner is a retired IAS officer and cannot compel him to undergo treatment from a government hospital and he cannot be equated with a layman.

9. Hon'ble Supreme Court in the Order permitted the petitioner to approach this Court in the event of any emergency for relief.

Considering the contents in the petition, the annexures attached to it and the arguments of petitioner's side there is no element of emergency to release him on interim bail. Therefore I am of the view that the petition is devoid of any merit. Therefore the petition is dismissed.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this the 26<sup>th</sup> day of May, 2023.

Sd/-  
**K.K.Balakrishnan**  
**Special Judge, (SPE/CBI) – III**  
**Ernakulam**

APPENDIX : Nil

Id/-  
**Special Judge, (SPE/CBI) – III**

Typed by:-Apb/-  
Compd by:-STS/-