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BAIL APPL. NO. 13662 OF 2025 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

WEDNESDAY, THE 11<sup>TH</sup> DAY OF FEBRUARY 2026 / 22ND MAGHA, 1947

BAIL APPL. NO. 13662 OF 2025

CRIME NO.109/2025 OF CYBER CRIME POLICE STATION,  
THIRUVANANTHAPURAM CITY

AGAINST THE ORDER DATED 06.11.2025 IN CRMP NO.2508 OF  
2025 OF ADDITIONAL SESSIONS COURT FOR THE TRIAL OF CASES  
RELATING TO ATROCITIES & SEXUAL VIOLENCE AGAINST WOMEN &  
CHILDREN, THIRUVANANTHAPURAM

PETITIONER/3RD ACCUSED:

PANKAJ KUMAR  
S/O LATE YASH PAUL, NEAR MATA MANDIR, RS PURA,  
CHAK ROI, CHAKROHI, JAMMU & KASHMIR, PIN - 181102

SRI.R.S.LAKSHMAN  
SRI.PRANAV KRISHNA

RESPONDENTS/STATE:

- 1 THE STATION HOUSE OFFICER  
CYBER CRIME POLICE STATION,  
THIRUVANANTHAPURAM, PIN - 695001
- 2 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF  
KERALA ERANAKULAM, PIN - 682031

SRI.S. RAJEEV - AMICUS CURIAE  
SRI.M.C. ASHI, SR. PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
11.02.2026, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



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“C.R.”

## ORDER

This application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, BNSS), seeking pre-arrest bail.

2. The applicant is accused No.3 in Crime No.109/2025 of Cyber Crime Police Station, Thiruvananthapuram City. The offences alleged are punishable under Sections 78(1)(ii) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short 'the BNS'); Section 67B of the Information Technology Act, 2000, and Section 14 read with Section 13 of the Protection of Children from Sexual Offences (PoCSO) Act, 2012.

3. The prosecution case, in short, is that a minor girl aged 12 years, while using her father's mobile phone, downloaded the Snapchat application and began interacting with several users, including one identified as "Jinhwa" (accused No.1, namely Ishan). It is alleged that he exchanged photographs with the victim and persuaded her to share indecent images. The victim subsequently interacted with other Snapchat IDs such as "Korean Boy," "Smcamilaa," and "Seo Joon," allegedly operated by other accused, including the applicant herein.



4. The applicant is a native of Jammu and Kashmir. He was arrested in connection with the above crime on 12.10.2025 at Kashmir by the SHO, Cyber Crime Police Station, Thiruvananthapuram and produced before the Fast Track Court (PoCSO Cases), Jammu. As per Annexure A4 order, he was granted transit bail for a limited period of 15 days on condition that he shall surrender before the investigating officer at Cyber Crime Police Station, Thiruvananthapuram City, within 15 days. It was made clear that if the applicant fails to do so, the Cyber Crime Police would be at liberty to arrest him. The said order was passed on 13.10.2025. Thereafter, the applicant filed the above application seeking pre-arrest bail before this Court.

5. I have heard Sri.R.S.Lakshman, the learned counsel for the applicant, Sri.M.C.Ashi, the learned Senior Public Prosecutor and Sri.S.Rajeev, the learned Amicus Curiae appointed by this Court to assist the Court.

6. The learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the present case. The counsel further submitted that no materials are on record to connect the applicant with the alleged crime; hence,



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he is entitled to bail. The learned counsel also submitted that the electronic device allegedly used by the applicant was already surrendered to the police, and hence his custodial interrogation is not necessary.

7. The learned Senior Public Prosecutor submitted that the application for pre-arrest bail is not maintainable since the applicant was already arrested and released on transit bail. On merits, it was submitted that the alleged incident occurred as a part of the applicant's intentional criminal acts, and if he is released on bail at this stage, it will affect the course of the investigation. The learned Senior Public Prosecutor added that the custodial interrogation of the applicant is necessary.

8. The learned Amicus Curiae endorsed the view of the learned Senior Public Prosecutor as to the maintainability of the pre-arrest bail application. The learned Amicus Curiae submitted that since the applicant was already arrested, he cannot entertain any apprehension of arrest so as to maintain an application for pre-arrest bail. The learned counsel relied on the judgment of the Gauhati High Court in **Kamal Sabharwal v. State of Assam and Another** [2023 Supreme (Gau) 1389] in support of his submission that the application for pre-arrest bail under Section



482 of BNSS is not maintainable once the person is already arrested and released on transit bail.

9. Section 35 of the BNSS deals with the arrest of a person without a warrant. Section 187(1) of BNSS says about the production of an arrested accused before the Magistrate. Sub-section (2) of Section 187 specifically provides that when an accused is arrested without warrant and produced before a Magistrate who has no jurisdiction to try the case or commit it for trial and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

10. As stated already, the applicant in this case was arrested and produced before the Fast Track Court (PoCSO Cases), Jammu. It appears that instead of resorting to Section 187(2) of BNSS, the learned Fast Track Judge granted transit bail to the applicant. The grant of transit bail to someone who apprehends arrest in another State other than the State where the offence is committed was considered by the Supreme Court in **Priya Indoria v. State of Karnataka** (2023 KHC OnLine 6997). It was held that when a court cannot grant pre-arrest bail in cases



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where crimes have been registered outside its territorial jurisdiction, the court is empowered to pass an order of transit bail. The dictum laid down in **Priya Indoria** (supra) applies to a case where a person commits an offence in one State and the FIR is registered within the jurisdiction where the offence was committed, but the accused resides in another State. In such a case, the accused can approach the Court in the other State and seek transit anticipatory bail of limited duration. It is made clear in **Priya Indoria** (supra) that the accused can seek limited transit pre-arrest bail or limited interim protection from the Court in the State in which he resides, but in such an event, a regular or full-fledged pre-arrest bail could be sought from the competent court in the State in which the FIR is filed. The dictum laid down in **Priya Indoria** (supra) does not apply to a case where the accused has already been arrested.

11. The learned counsel for the applicant submitted that there is nothing in the language of Section 482 of BNSS that indicates that a person who is not in custody on account of transit bail and apprehending re-arrest is entitled to maintain a pre-arrest bail application. Reliance was placed on **Dhanraj Aswani v. Amar S.Mulchandani and Another** [(2024) 10 SCC 336]. I



cannot subscribe to the said contention in view of the definite wording in Section 482(1) of the BNSS that a pre-arrest bail can be maintained only by a person who has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence.

12. Section 482(1) of the BNSS, which deals with the grant of pre-arrest bail, reads as follows:

***"482. Direction for grant of bail to person apprehending arrest.***

*(1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail".*

A reading of the above provision would show that a person can maintain an application for pre-arrest bail in a case where he has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence. The purpose of such a provision is to safeguard individuals from the possibility of being arrested with malicious intent. Therefore, pre-arrest bail must be sought before an arrest is made. In other words, a person who



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has already been arrested cannot maintain an application for pre-arrest bail, going by the wording of Section 482 of the BNSS. The dictum laid down in **Dhanraj Aswani** (supra) is only to the effect that where a person in custody in connection with a particular crime apprehends arrest in a different crime, he can maintain an application for pre-arrest bail in connection with the latter crime while in custody in connection with the former crime. It was further held in that decision that an accused is entitled to seek pre-arrest bail only so long as he is not arrested in connection with that offence. Once arrested, the only remedy for him would be to seek regular bail; release on transit bail makes no difference.

13. The question whether a person who was arrested and released on transit bail by a court in another State can maintain a pre-arrest bail application before the jurisdictional court was considered by the High Court of Gauhati in **Kamal Sabharwal** (supra). It was held that an application for pre-arrest bail under Section 438 of Cr.P.C. (Section 482 of BNSS) is not maintainable once a person is already arrested and released on transit bail. It was further held that the only option left in such a case for the accused is to appear before the jurisdictional court and seek



regular bail.

14. For the reasons stated above, I am of the view that the application for pre-arrest bail is not maintainable and the remedy open to the applicant is either to surrender before the investigating officer or to appear before the jurisdictional court and seek regular bail. That apart, I must say that the applicant, on merits also, cannot invoke the extraordinary discretionary jurisdiction vested with this Court inasmuch as he has failed to comply with the direction in Annexure A4 order.

The bail application is, accordingly, dismissed. I place on record the appreciation for the able assistance rendered by the learned Amicus Curiae, Sri.S.Rajeev.

Sd/-

**DR. KAUSER EDAPPAGATH  
JUDGE**

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APPENDIX OF BAIL APPL. NO. 13662 OF 2025

PETITIONER ANNEXURES

- Annexure A1 A TRUE COPY OF THE FIR IN CRIME NO. 109 OF 2025 OF THE CYBER CRIME POLICE STATION, THIRUVANANTHAPURAM
- Annexure A2 A TRUE COPY OF THE ORDER IN CRL. M.P. NO. 2508 OF 2025, DATED 06.11.2025
- Annexure A3 A TRUE COPY OF THE BAIL APPLICATION DATED 13.10.2025 PREFERRED BY THE PETITIONER BEFORE THE LD.SPECIAL COURT (POCSO), JAMMU
- Annexure A4 A TRUE COPY OF THE TRANSIT BAIL ORDER DATED 13.10.2025 PASSED BY THE LD. SPECIAL COURT (POCSO), JAMMU
- Annexure A5 A TRUE COPY OF THE SCREENSHOT FROM SNAPCHAT WEBSITE REFLECTING THE AGE RESTRICTION ON THE APP
- Annexure A6 A TRUE COPY OF THE SCREENSHOT FROM SNAPCHAT WEBSITE SHOWING ADDITIONAL SAFEGUARDS FOR TEEN USERS ON 'SNAPCHAT'