KHOIROM BIPINCHANDRA SINGH
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IN THE HIGH COURT OF MANIPUR
AT IMPHAL

AB No. 46 of 2024

Naorem Priyobarta Singh, aged about 36 years, S/o Naorem Purniam Singh of Kakching Wairi Sabal Leikai, P.O. & P.S. Kakching, Kakching District, Manipur – 795103.

...Petitioner

- Versus -

Officer in Charge, Kakching Police Station, Kakching District, Manipur.

...Respondent

BEFORE
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU

For the petitioner	:	Mr. M. Hemchandra, Senior Advocate
For the respondent	:	Mr. M. Rarry, Senior Advocate
Date of hearing	:	27.12.2024.
Date of judgment & order	:	**07.01.2025**

JUDGMENT & ORDER
(CAV)

[1] Heard Mr. Hemchandra, learned Sr. counsel appearing for the petitioner and Mr. M. Rarry, learned Sr. counsel appearing for the respondent at length.

[2] The present case has been filed under section 482 of the Bharatiya Nagarik Suraksh Sanhita, 2023 with the following prayers:

i) To admit the present application;

ii) Call for the records;

iii) After hearing the parties grant pre-arrest bail or anticipatory bail to the petitioners/applicants u/s 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 in its absolute nature in connection with the above referred FIR No. 81(11)2024 KCG PS U/s 191(2)/188/223/109/118(2)/324(4)/132 BNS and 3(2) (e) PDPP Act for the ends of justice;

iv) To pass any other order/direction as the Hon'ble Court may deem fit.

[3] The case of petitioner is that on 16.11.2024 at around 6:30 p.m. All Kakching Clubs Coordinating Committee along with Bazar Board; Joint Non-Government Voluntary Organisation; Keithel Ema Lup, Kakching and Langshai Thouna organized a joint candle lighting at the main Road of Kakching Bazar to condemn the inhuman killing of 6(six) innocent civilians of Jiribam District by some unknown militants. After the candle lightening, some of the people who had gathered at the Main Road of Kakching Bazar attacked/storm the residence of the local MLA of Kakching AC thereby causing damage to the property. In connection with the said incident, the Kakching Police Station registered FIR No. 81(11)2024 KCG PS U/s 191(2)/188/223/109/118(2)/324(4)/132 BNS and 3(2) (e) PDPP Act against a large group of people numbering about 800 to 1000 (both men and women). However, the name of the petitioner is not mentioned anywhere in the said FIR as he was not at all involved in the said incident.

[4] It is submitted that the personnel of Kakching Police Station have been regularly visiting the residence of the petitioner with an intention to cause harassment to the petitioner and arrest him in connection with the said FIR case. It is also submitted that under section 35(3) of BNSS, 2023 notice of appearance before a Police Officer is to be given to a person against whom a reasonable complaint has been made but the act of the personnel of Kakching Police Station clearly violate the relevant provisions of the Act i.e. BNSS, 2023.

[5] Being aggrieved, the applicant/petitioner filed Cril. Misc (AB) Case No. 63 of 2024 before the Court of Sessions Judge, Thoubal whereby the Ld. Court of Sessions Judge, Thoubal passed interim order dated 02.12.2024 thereby granting interim relief to the applicant/petitioner. Relevant portion of the order dated 02.12.2024 reads as follows:

> *"On being heard and after having perused the applications, it is of my opinion that a chance be given to the petitioners of being heard.*
>
> *Hence, the petitioners are directed to appear before the IO of the case on 03.12.2024 before 5:00pm and depose about their involvements.*
>
> *In the meantime, in the event of arrest of the petitioners by the personnel of Kakching PS, the petitioners be released on interim anticipatory ball till 06.12.2024 on their furnishing PR and surety bonds of Rs 50,000/- with the following conditions that the petitioners shall:*
>
> *(i) co-operate with the investigating authority as and when required &*
>
> *(ii) not leave the State of Manipur without prior permission of the Court.*
>
> *Further, the OC/Kakching PS is directed to submit report before this Court on 06.12.2024 for hearing."*

Further, submits that as per order dated 02.12.2024, the petitioner along with his counsel and some local people went to the

Kakching P.S on 03.12.2024 at around 3:30 pm. However, as no one was present at the Kakching P.S, the petitioner along with his counsel had to return, upon coming out of the premises of Kakching P.S. the petitioner and his counsel namely Shri Kh. Arunkumar, Advocate took photograph as proof that the they had visited the Kakching P.S. as per the direction of the Court of Sessions Judge, Thoubal however, the same was completely omitted in the report of the I.O. and the Ld. Sessions Judge, Thoubal rejected the Anticipatory Bail application on 06.12.2024 on the ground that the petitioner had failed to cooperate with the investigation. Relevant portion of the order dated 06.12.2024 reads as under:

> *"In the instant matter at hand, opportunity was given to the accused persons to co-operate with the investigation authority as one of the condition in the interim order dated 02.12.2024, however, they failed to comply with the conditions imposed by this Court while granting interim bail.*
>
> *In the light of the above discussions and the materials submitted before me, the interim bail order dated 02.12.2024 is hereby vacated."*

Accordingly, the present A.B. is filed by the petitioner/applicant.

[6] Mr. M. Rarry, learned Sr. counsel for the respondent has submitted his affidavit-in-opposition stating that the case of the petitioner for grant of Anticipatory Bail was earlier considered by the Ld. Sessions Judge, Thoubal in Cril. Misc(AB) Case No. 63 of 2024 and grant interim bail vide order dated 02.12.2024 while calling for Bail Objection Report had given an opportunity to the petitioner/accused person to cooperate with the Investigating Authority as one of the conditions in the interim bail order.

And, the I.O. of the case has submitted his bail objection report before the Ld. Sessions Judge, Thoubal in connection with the above referred case and the bail objection report reads as follows:

> *"Subject: Submission of prayer for rejecting the interim Anticipatory Bail in r/o the accused Naorem Priyobarta Singh (36) S/O N. Purnima Singh of Kakching Wairi Sabal Leikai in C/W FIR No . 85(11)2024 KCG-PS u/s 191(2)223/109/118(2)/324(4)/132 BNS & 3(2)(e) PDPP Act added sec. 61(2)/190 BNS:*
>
> *Ref.: Cril. Misc. (AB) Case No. 63 of 2024 and M/No. S.J./TBL/2024/1150, dated 2nd Dec., 2024.*
>
> *The brief fact of the case is that, on 27.11.2024 at 7:45 pm, received information that on the same day at about 6:30 pm a mob comprising of men and women, numbering about 500/600, which was instigated and spearheaded by members of Langsai Thouna (a CSO based at Kakching) led by the Convenor Kshetrimayum Rajiv Singh (50) S/O Ksh. Chaoba Singh of Kakching Moirangthem Leikai and some students' organization of Kakching gather at Kakching Paji Leikai by defying curfew orders of District Magistrate, Kakching and were storming to the residence of Hon'ble MLA Kakching A/C in connection with the non-released of four (4) persons who were arrested in connection with FIR No. 80(11) 2024 KCG-PS & FIR No. 81(11)2024 KCG-PS.*
>
> *On receipt of the information, police deployed at the residence was alerted and additional police teams also rushed to the spot and confronted / pacified the mob and prevented them from entering towards the residence of Hon'ble MLA. However, the mob turned violent and tried force entry by manhandling the police teams on duty. But they were pushed back. Later they pelted stones and broke some police vehicles and marched towards Kakching Police Station for causing more violent activities. The unruly mob also beat up some police personnel who were discharging duty at Kakching Bazar and two of them were also hospitalized. After the unruly mob reached near the proximity of Kakching police station, the large police teams (including senior police officers) announced using loudspeaker and asked the mob to disperse from the spot peacefully. But the mob paid no attention and constantly shouted and raised various slogans against the police on duty. The mob became more violent and started pelting stones towards the police teams on duty from various directions. The police teams made further announcements to disperse but the mob became more violent and started pelting more stones. As the situation became more violent the police teams had no option but to disperse the mob by firing tear shells/mock bombs with the authorization of the Executive Magistrate present. After hectic efforts the mob was finally dispersed at about 12:40 am of 28/11/2024. Later discovered that V.D.F. No. 1923. N.*

Shyamsundar Singh of R/L-KCG, and 2) V.D.F. No. 1570, Sh. Alvish Singh MTO-KCG got injuries on their head, chest and back and admitted at EMA Hospital, Kakching. Hence the case.

In the course of investigation, it has been established that members of Langsai Thouna led by the Convener Kshetrimayum Rajiv Singh (50) S/O Ksh. Chaoba Singh of Kakching Moirangthem Leikai and other vested groups have been creating law and order situation in Kakching area for the past many days by taking undue advantage of the prevailing ethnic violence in Manipur. This has been witnessed by various police teams who are deployed for law and order on many occasions. On 16 November, too, the incidents which led to forming of mob and attacking the residence of Hon'ble MLA and subsequently manhandling him (with life attempt) on the same day was also a result of suspected conspiracy and instigation planned by Langsai Thouna and some other vested groups. The incidents have led to police taking up two FIR cases (FIR No. 80(11)2024 KCG PS & FIR No. 81 (11) 2024 KCG-PS. When the police arrested some of the persons involved in the two cases, Langsai Thouna led by Kshetrimayum Rajiv Singh and Naorem Priyobarta Singh, PRO, Langsai Thouna only instigated and conspired to create law and order situation at Kakching bazaar area for release of the four (4) arrested persons. This current case FIR is also a sum total of such instigation and conspiracy done by Langsai Thouna and other vested groups by taking undue opportunity of the charged sentiments/emotions of relatives/guardians (of those four arrested) and remanded into judicial custody on 27 November 2024, i.e. on day of incident. This fact has also been corroborated through the interception done by central security force.

As a result Langsai Thouna office was raided for alleged involvement in this current case FIR and the undernamed accused persons were arrested on 28/11/2024. Due to law and order situation they were taken to Porompat PS for safe custody. As part of investigation, the complainant was examined and recorded his detail statement in c/w the case U/S 180 of BNSS. Visited and inspected the spots and drew rough sketch maps of the POs with indices. Later they were produced before the Duty Magistrate, Kakching via VC and remanded into police custody for 6 days, i.e. from 28/11/2024 to 3/12/2024. And they were lodged at Porompat PS due to anticipated law and order situation at Kakching district.

The mobile phones (ten in nos.) belonging to the undernamed accused persons were also seized in connection with the case (videography was also done). The office of Langsai Thouna was also inspected and examined with videography. From the office many incriminating articles were also seized from the office. The seized articles give some picture about the tasks/activities that Langsai Thouna performs, some of which are against the law.

On 28/11/2024, 29/11/2024 and 30/11/2024 police team rushed to the house of Naorem Priyobarta Singh located at Kakching Wairi Sabal Leikai to effect arrest him but could not found

arrest him till date. It is corroborated from the GD. No. 14/KCG-PS/2024 dated 28/11/2024, GD. No. 22/KCG-PS/2024 dated 29/11/2024 and GD. No. 23/KCG- PS/2024 dated 30/11/2024. (Enclosed as annexures). The accused person has properly organized womenfolk of the locality so that they may obstruct the entry of police team and prevent them from arresting him, while his house continue to be used as gathering point to further his activities.

During the police custody period, all the accused persons Le. (1) Kshetrimayum Rajiv Singh (50 yrs) S/O Ksh. Chaoba Singh of Kakching Moirangthem Leikai, (2) Naorem Jotish Singh (30 yrs) S/O N. Nabakeshow Singh of Kakching Chumnang Leikai, (3) Leishangthem Prabin Singh (31 yrs) S/O (L) L. Ibomcha Singh of Kakching Lamdong, (4) Pukhrambam Gopin Singh (32 yrs) S/O P. Gopal Singh of Kakching Wairi Senapati Leikai, (5) Naorem Shitaljit Singh (33 yrs) S/O (L) N. Godador Singh of Kakching Wairi Khullakpam Leikai, (6) Wayenbam Johnson Singh (31 yrs) S/O (L) W. Joykumar Singh of Kakching Paji Leikai and (7) Kshetrimayum Ashokumar Singh (30 yrs), S/O Ksh. Modhuchandra Singh of Kakching Sumak Leikai were interrogated one by one.

On interrogation of the accused person, namely Kshetrimayum Rajiv Singh (50 yrs).he admitted that he was part of organizing the mob through various meetings before the day of incident and on the day of incident. He was also part of the group (as Convener of Langsai Thouna) which gave clarion call to defy the curfew orders and organize mob to cause violence on 27th November 2024 if the four (4) arrested persons in c/w FIR No. 80 (11) 2024 KCG PS & FIR No. 81(11)2024 KCG PS were not released. He also admitted that he was present in various places of Kakching area when the incident took place. He stated that Naorem Priyobarta Singh is PRO of Langsai Thouna. They work together for Langsai Thouna. He further admitted that members of Langsai Thouna and some other vested groups were also part of the two incidents on 16 November 2024. The presence of Naorem Priyobarta Singh (36) yrs S/o N. Pumima Singh of Kakching Wairi Sabal Leikai was also was also corroborated through the statement of the accused no.7.

On further investigation, it was corroborated from the CDR analysis of mobile phone no. 8787560811, which was used by Naurem Priyobarta Singh, that he was present in various places of Kakching areas where the mob activities took place. The picture of the tower location is enclosed.

There are other crimes where Langsal Thouna has been named in some FIRs at Kakching police station and this accused person has been party to all these crimes along with the Convener, Langsal Thouna who has already been arrested. Due to his guilty conscience the said accused person has been avoiding police for the past many days.

In connection with the order of Hon'ble Court of Session Judge, Thoubal, the accused person, namely Naorem Priyobarta Singh (36) S/e N. Pumima Singh of Kakching Wairi Sabal Leikal had

come to Kakching police Station on 03/12/2024 @ 03.00 pm. But at that time the OC/Kakching and the 10 were engaged in case proceedings of the above referred case and other cases at the Court complex. Accordingly, he was informed to appear before the 10 on the next day but he did not appear before the 10 till date. From his motive, there is strong apprehension that he will abscond and will not co-operate in the investigation of the case.

Therefore, considering the above facts and circumstances, the above noted accused person is highly required for custodial interrogation to extract the details of his involvement in the case, their associates and their motives/intentions in the case. So, his custodial interrogation is highly required in the case. Smooth and fair investigation may not be possible without custodial interrogation and he has not shown much obedience to the order of Hon'ble court to appear before the 10 for giving his statement. He is likely to not cooperate and abscond in near future.

Hence, the Hon'ble Judge is humbly prayed to cancel the interim anticipatory bail granted to the accused person by the Hon'ble Session Court, Thoubal keeping in view the best interest for smooth investigation of the case."

[7] It is further submitted that the petitioner is not entitled to grant the relief sought for in the present application keeping in mind the parameters laid down by the Hon'ble Apex Court and relied upon the following judgment in support of his case;

Mayanglambam Prabha Devi v. State of Manipur and others, 2022 SCC Online Mani 449- para 28

"28. In so far as the grant of refusal of the anticipatory bail, the Hon'ble Apex Court in the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694*** *has laid down the parameters as under:*

"112. *The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:*

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
(iii) The possibility of the applicant to flee from justice;
(iv) The possibility of the accused's likelihood to repeat similar or other offences;

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

Srikant Upadhyay and others v. State of Bihar and another, 2024 SCC Online SC 282- para 16, 21, 24.

"16. The core contention of the appellants is that the rejection of the application for anticipatory bail without considering the application on merits for the reason of issuance of proclamation under Section 82, Cr.P.C., is unsustainable. It is the further contended that at no stage, the appellants were "evading the arrest" or "absconding" but were only exercising their legal right to seek anticipatory bail. It is in the aforesaid circumstances that the learned Senior Counsel appearing for the appellants raised the contention that when an application for anticipatory bail is pending, the issuance of proclamation, following issuance of non-bailable warrant could not be a reason for non-considering the application for anticipatory bail on merits.

21. We are in full agreement with the view taken by the Gujarat High Court that filing of an anticipatory bail through an advocate would not and could not be treated as appearance before a court by a person against whom such proceedings, as mentioned above are instituted. The meaning of the term "absconded" has been dealt by us hereinbefore. We found that its etymological and original sense is that the accused is hiding himself. What is required as proof for absconding is the evidence to the effect that the person concerned was knowing that he was wanted and also about pendency of warrant of arrest. A detailed discussion is not warranted in this case to understand that the appellants were actually absconding. It is not in dispute that they were served with the "summons". The fact that bailable warrants were issued against them on 12.04.2022 is also not disputed, as the appellants themselves have produced the order whereunder bailable warrants were issued against them. We have already referred to Section 70 (2), Cr. P.C. which would reveal the position that once a warrant is issued it would remain in force until it is cancelled by the Court which issued it or until its execution. There is no case for the appellants that either of such events had occurred in this case to make the warrants unenforceable. They also got no case that their application was interfered with by a higher Court. That apart, it is a fact that the appellants themselves on 23.08.2022, moved a bail-cum-surrender application before the Trial Court but withdrew the same fearing arrest. It is also relevant to note that in the case on hand even while contending that they were before a Court, the appellants got no case that in terms of the provisions under Section 438 (1-B), Cr. P.C. an order for their presence before the Court was ordered either suo motu by the Court or on an application by the public prosecutor. When that be the circumstance, the appellants cannot be allowed to contend that they were not hiding or concealing themselves from arrest or that they were not knowing that they were wanted in a Court of law.

24. There can be no room for raising a contention that when an application is filed for anticipatory ball, it cannot be adjourned-without passing an order of Interim protection. A bare perusal of Section 438 (1), Cr. P.C., would reveal that taking into consideration the factors enumerated thereunder the Court may either reject the application forthwith or issue an interim order for the grant of anticipatory ball. The proviso thereunder would reveal that if the High Court or, the Court of Sessions, as the case may be, did not pass an interim order under this Section or has rejected the application for grant of anticipatory ball, it shall be open to an officer in-charge of a police station to arrest the person concerned without warrant, on the basis of the accusation apprehended in such application. In view of the proviso under Section 438(1), Cr. P.C., it cannot be contended that if, at the stage of taking up the matter for consideration, the Court is not rejecting the application, it is bound to pass an interim order for the grant of anticipatory bail. In short, nothing prevents the court from adjourning such an application without passing an interim order. This question was

considered in detail by a Single Bench of the High Court of Bombay, in the decision in Shrenik Jayantilal Jain v. State of Maharashtra Through EOW Unit II, Mumbai and answered as above and we are in agreement with the view that in such cases, there will be no statutory inhibition for arrest. Hence, the appellants cannot be heard to contend that the application for anticipatory bail filed in November, 2022 could not have been adjourned without passing interim order. At any rate, the said application was rejected on 04.04.2023. Pending the application for anticipatory ball, in the absence of an interim protection, if a police officer can arrest the accused concerned how can it be contented that the court which issued summons on account of non-obedience to comply with its order for appearance and then issuing warrant of arrest cannot proceed further in terms of the provisions under Section 82, Cr.. P.C., merely because of the pendency of an application for anticipatory bail. If the said position is accepted the same would be adopted as a ruse to escape from the impact and consequences of issuance of warrant for arrest and also from the issuance of proclamation under Section 82, Cr. P.C., by filing successive applications for anticipatory bail. In such circumstances, and in the absence of any statutory prohibition and further, taking note of the position of law which enables a police officer to arrest the applicant for anticipatory bail if pending an application for anticipatory bail the matter is adjourned but no interim order was passed. We have no hesitation to answer the question posed for consideration in the negative. In other words, it is made clear that in the absence of any interim order, pendency of an application for anticipatory bail shall not bar the Trial Court in issuing/proceeding with steps for proclamation and in taking steps under Section 83, Cr. P.C., In accordance with law."

Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694- para 112

"112. The validity of the restrictions imposed by the Apex Court, namely that the accused released on anticipatory bail must submit himself to custody and only thereafter can apply for regular bail. This is contrary to the basic intention and spirit of section 438 Cr.P.C. It is also contrary to Article 21 of the 57 Constitution. The test of fairness and reasonableness is implicit under Article 21 of the Constitution of India. Directing the accused to surrender to custody after the limited period amounts to deprivation of his personal liberty."

Jai Prakash Singh v. State of Bihar and another, (2012) 4 SCC 379- para 19

"19. The case at hand, if considered in the light of the aforesaid settled legal proposition, we reach an inescapable conclusion that the High Court did not apply any of the aforesaid parameters, rather dealt with a very serious matter in a most casual and cavalier manner and showed underserving and unwarranted sympathy towards the accused."

Shri Gurbaksh Singh Sibbia & Ors vs. State of Punjab , (1980) 2 SCC 565 – para 12

"12. We find ourselves unable to accept, in their totality, the submissions Full Bench of the High Court has engrafted on the power conferred by Section 438. Clause (1) of Section 438 is couched in terms, broad and unqualified. By any known canon of construction, words of width and amplitude ought not generally to be cut down s to read into the language so as of the statute restraints and conditions which the legislature itself did not think it proper or necessary to impose. This is especially true when the statutory provision which falls for consideration is designed to secure a valuable right like the right to personal freedom and involves the application of a presumption as salutary and deep grained in our criminal jurisprudence as the presumption of innocence. Though the right to apply for anticipatory bail was conferred for the first time by Section 438, while enacting that provision the legislature was not writing on a clean slate in the sense of taking an unprecedented step, insofar as the right to apply for bail is concerned. It had before it two cognate provisions of the Code: Section 437 which deals with the power of courts other than the Court of Session and the High Court to grant bail in non-bailable cases and Section 439 which deals with the "special powers" of the High Court and the Court of Session regarding bail. The whole of Section 437 is riddled and hedged in by restrictions on the power of certain courts to grant bail. That section reads thus:

> *437. When bail may be taken in case of non-bailable offence.-(1) When any person accused of or suspected of the commission of any non- bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a court other than the High Court or Court of Session, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life:*

Provided that the court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail:

Provided further that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on with such directions ball and gives an as may undertaking that he be given by the court.

> *(2) If it appears to such officer or court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on ball, or, at the discretion of such officer or court, on the execution by*

him of a bond without sureties for his appearance as hereinafter provided.

(3) When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code or abetment of, or conspiracy or attempt to commit, any such offence, is released on ball under sub. section (1), the court may impose any condition which the court considers necessary-

(a) in order to ensure that such person shall attend in accordance with the conditions of the bond executed under this Chapter, or
(b) in order to ensure that such person shall not commit an offence similar to the offence of which he is accused or of the commission of which he is suspected, or
(c) otherwise in the interests of justice.

(4) An officer or a court releasing any person on bail under sub- section (1) or sub-section (.), shall record in writing his or its reasons for so doing.

(5) Any court which has released a person on bail under sub- section (1) or sub-section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.

(7) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

Section 439(1)(a) incorporates the conditions mentioned in Section 437(3) if the offence in respect of which the bail is sought is of the nature specified in that sub-section. Section 439 reads thus:

439. Special powers of High Court or Court of Session regarding bail.- (1) A High Court or Court of Session may direct-

(a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) which it of Section 437, may

Impose any condition which it considers necessary for the purposes mentioned that sub-section.

(b) that any condition Imposed by a Magistrate when reloading any person on ball be set aside or modified :

Provided that the High Court or the Court of Beaton shall, before granting ball in a person who is accused of an offence which i exclusively by or which, thought not to triable, punishable with imprisonment for life, give notice of the application Public Prosecutor unless it is for reasons to be recorded in writing, of opinion that it is not practicable to give such notice,

(2) A High Court or Court of Session may direct that say person who has been released on ball under this Chapter be arrested and commit him to custody.

The provisions of Sections 437 and 439 furnished a convenient model for the legislature to copy while enacting Section 490. If it has not done so and has departed from a pattern which could easily be adopted with the necessary modifications, it would be wrong to refuse to give to the departure its full effect by assuming that it was not intended to serve any particular or specific purpose. The departure in our opinion, was made advisedly and purposefully Advisedly, at least in part, because of the 41st Report of the Law Commission which, while pointing out the necessity of Introducing a provision in the Code enabling the High Court and the Court of Session to grant anticipatory ball, said in paragraph 39.9 that it had "considered carefully the question of laying down in the stature certain conditions under which alone anticipatory ball could be granted" but had come to the conclusion that the question of granting such ball should be left "to the discretion of the court" and ought not to be fettered by the statutory provision itself, since the discretion was being conferred upon superior courts which were expected to exercise it judicially. The legislature conferred a wide discretion on the High Court and the Court of Session to grant anticipatory bail because it evidently felt, firstly, that it would be difficult to enumerate the conditions under which anticipatory bail should or should not be granted and secondly, because the intention was to allow the higher courts in the echelon a somewhat free hand in the grant of relief in the nature of anticipatory bail. That is why, departing the terms of Sections 437 and 439, Section 438(1) uses the language that the High Court or the Court of Session "may, If it thinks fit" direct that the applicant be released on bail. Sub-section (2) of Section 438 is a further and clearer manifestation of the same legislative Intent to confer a wide discretionary power to grant anticipatory bail. It provides that the High Court or the Court of Session, while issuing a direction for the grant of anticipatory ball, "may include such conditions in such directions in the light of the facts of the particular case, as it may think fit", including the conditions which are set out in clauses (i) to (iv) of sub-section. (2).The proof of legislative Intent Can best be found in the language which the legislature uses. Ambiguities can undoubtedly be resolved by resort to extraneous aids but words, as

wide and explicit as have been used in Section 438, must be given their full effect, especially when to refuse to do so will result in undue impairment of the freedom of the individual and the presumption of innocence. It has to be borne in mind that anticipatory ball is sought when there is a mere apprehension of arrest on the accusation that the applicant has committed a non-bailable offence. A person who has yet to lose his freedom by being arrested asks for freedom in the event of arrest. That is the stage at which it is imperative to protect his freedom, insofar as one may, and to give full play to the presumption that he is innocent. In fact, the stage at which anticipatory bail is generally sought brings about its striking dissimilarity with the situation in which a person who is arrested for the commission of a non-bailable offence asks for bail. In the latter situation, adequate data is available to the court, or can be called for by it, in the light of which it can grant or refuse relief and while granting it, modify it by the imposition of all or any of the conditions mentioned in Section 437.

[8] Learned counsel of the petitioner has also filed his rejoinder affidavit on behalf of the petitioner and relied on the following judgments in support of his case;

1. Bhavnagar University v. Palitana Sugar Mill (P) Ltd. and others, (2003) 2 SCC 111 – Para 59

"59. A decision, as is well known, is an authority for which it is decided and not what can logically be deduced therefrom. It is also well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."

2. Priya Indoria v. State of Karnataka and others, (2024) 4 SCC 749- para 39,44, 46, 50

"39. In Gurbaksh Singh Sibbia v. State of Punjab ("Gurbaksh Singh Sebia"), a Constitution Bench of this Court speaking through Chandrachud, CJ., observed that society has a vital stake in preserving personal liberty as well as investigational powers of the police and their relative importance at any given time depends upon the complexion and restraints of political conditions. How best to balance these interests while determining the scope of Section 438 CrPC was the focus of the said case while dealing with the historical background of the said provision.

44. The concept of "anticipatory bail" was clearly explicated vide the 41st Law Commission Report year 1969, whereby the Law Commission observed as such:

> *"39.9. Anticipatory ball. The suggestion for directing the release of a person on bail prior to his arrest (commonly known as "anticipatory bail") was carefully considered by us. Though there is a conflict of judicial opinion about the power*

of a court to grant anticipatory bail, the majority view is that there is no such power under the existing provisions of the Code. The necessity for granting anticipatory bail arises mainly because sometimes influential persons try to implicate their rivals in false causes for the purpose of disgracing them or for other purposes by getting them detained in jail for some days. In recent times, with the accentuation of political rivalry, this tendency is showing signs of steady increase. Apart from false cases, where there are reasonable grounds for holding that a person accused of an offence is not likely to abscond, or otherwise misuse his liberty while on bail, there seems no justification to require him first to submit to custody, remain in prison for some days and then apply for bail.

We recommend the acceptance of this suggestion. We are further of the view that this special power should be conferred only on the High Court and the Court of Session, and that the order should take effect at the time of arrest or thereafter." (emphasis added by us)

46. Observing that the crimes, the criminals and even the complainants can occasionally possess s extraordinary features, in Gurbaksh Singh Sibbia it was stated that "[w]hen the even flow of life becomes turbid, the police can be called upon to inquire into charges arising out of political antagonism" The powerful processes of criminal law can then be perverted for achieving extraneous ends. Attendant upon such investigations, when the police are not free agents within their sphere harassment and humiliation that of duty, is a great amount of inconvenience, can even take the form of the parading of a respectable person in handcuffs, apparently on way to a court of justice. The d foul deed is done when an adversary is exposed osed to social ridicule and obloquy, no matter when and whether a conviction is secured or is at all possible. It is in order to meet such situations, though not limited to these contingencies, that the power to grant anticipatory bail was introduced into the Code of 1973.

50. Thereafter, the law anticipatory bail was further crystallised by on the Constitution Bench of this Court in Gurbaksh Singh Sibbia 16, where it disagreed with the reasoning of the Full Bench19 of the Punjab and Haryana High Court. It was observed that since the denial of bail amounts to deprivation of personal liberty, the Court should lean against the imposition of unnecessary restrictions on the scope of Section 438 CrPC, especially when not imposed by the legislature in terms of the Section. It was observed that Section 438 CrPC is a procedural provision which is concerned with the personal liberty of the individual, who is entitled to the benefit of the presumption of innocence since he is not, on the date of his application for anticipatory bail, convicted of the offence in respect of which he seeks bail. An overgenerous infusion c of constraints and conditions which are not to be found in Section 438 CrPC can make its provisions constitutionally vulnerable since the right to

personal freedom cannot be made to depend on compliance with unreasonable restrictions. The beneficent provision contained in Section 438 CrPC must be saved, not jettisoned."

However, the learned counsel for the respondent contradicts the reliance made by the petitioner in support of his case saying that in the facts and circumstance of the case preserving personal liberty and restraining the investigational powers of the police does not arise at all.

3. <u>Sushila Aggarwal and others v. State (NCT of Delhi) and another, (2020) 5 SCC 1- para 7.2</u>

"7.2. While considering the issues referred to a larger Bench, referred to hereinabove, the decision of the Constitution Bench of this Court in Gurbaksh Singh Sibbia is required to be referred to and considered in detail. The matter before the Constitution Bench in Gurbaksh Singh Sibbia arose out of the decision of the Full Bench of the Punjab and Haryana High Court. The High Court rejected the application for bail after summarising, what according to it was the true legal position, thus: (Gurbaksh Singh Sibbia case, SCC pp. 576-77, para 11)

> *"(1) The power under Section 438, Criminal Procedure Code, is of an extraordinary character and must be exercised sparingly in exceptional cases only;*
>
> *(2) Neither Section 438 nor any other provision of the Code authorises 9 the grant of blanket anticipatory bail for offences not yet committed or with regard to accusations not so far levelled.*
>
> *(3) The said power is not unguided or uncanalised but all the limitations imposed in the preceding Section 437, are implicit therein and must be read into Section 438.*
>
> *(4) In addition to the limitations mentioned in Section 437, the petitioner must make out a special case for the exercise of the power to grant anticipatory bail.*
>
> *(5) Where a legitimate case for the remand of the offender to the police custody under Section 167(2) can be made out by the investigating agency or a reasonable claim to secure incriminating material from information likely to be received from the offender under Section 27 of the Evidence Act can be made out, the power under Section 438 should not be exercised.*
>
> *(6) The discretion under Section 438 cannot be exercised with regard to offences punishable with death or imprisonment for life unless the court at that very stage is satisfied that such a charge appears to be false or groundless.*
>
> *(7) The larger interest of the public and State demand that in serious cases like economic offences involving blatant*

corruption at the higher rungs of the executive and political power, the discretion under Section 438 of the Code should not be exercised; and

(8) Mere general allegations of mala fides in the petition are inadequate. The court must be satisfied on materials before it that the allegations of mala fides are substantial and the accusation appears to be false and groundless."

The learned counsel for the respondent contradicts the reliance made by the learned counsel for the petitioner.

4. Satish v. State of Haryana, (2012) 4 SCC 509- para 1 - 3.

"1. Application for impleadment/intervention is rejected. Leave granted.

2. This appeal is filed against the judgment and order dated 16-9-2011 passed in the anticipatory bail application by the High Court of Punjab and Haryana at Chandigarh in Satish v. State of Haryana. The High Court has rejected the application for anticipatory bail.

3. This Court, on 31-10-20112, while issuing notice, has ordered for the release of the appellant on his furnishing the personal bond of Rs 20,000 with one surety in the like amount to the satisfaction of the investigating officer, subject to the condition that he will join the investigation as and when required and shall abide by the provisions of Section 438(2) of the Code of Criminal Procedure, 1973. In our opinion, the aforesaid order should be made absolute and is made absolute. The appeal is disposed of accordingly."

5. Shri Gurbaksh Singh Sibbia &Ors vs State of Punjab , (1980) 2 SCC 565 – para 10, 11

"10. Shri V. M. Tarkunde, appearing on behalf of some of the appellants, while supporting the contentions of the other appellants, said that since the denial of bail amounts to deprivation of personal liberty, courts should lean against the imposition of unnecessary restrictions on the scope of Section 438, when no such restrictions are imposed by the legislature in the terms of that section. The learned counsel added a new dimension to the argument by invoking Article 21 of the Constitution. He urged that Section 438 is a procedural provision which is concerned with the personal liberty of an individual who has not been convicted of the offence in respect of which he seeks bail and who must therefore be presumed to be innocent. The validity of that section must accordingly be examined by the test of fairness and reasonableness which is implicit in Article 21. If the legislature itself were to impose an unreasonable restriction on the grant of anticipatory bail, such a restriction could have been struck down as being violative of Article 21. Therefore, while determining the scope of Section 438, the court should not impose any unfair or unreasonable limitation on the individual's right to obtain an order of anticipatory bail.

Imposition of an unfair or unreasonable limitation, according to the learned counsel, would be violative of Article 21, irrespective of whether it is imposed by legislation or by judicial decision.

11. The Full Bench of the Punjab and Haryana High Court rejected the appellants' applications for bail after summarising, what according to it is the true legal position, thus:

(1) The power under Section 438, Criminal Procedure Code, is of an extraordinary character and must be exercised sparingly in exceptional cases only;

(2) Neither Section 438 nor any other provision of the Code authorises the grant of blanket anticipatory bail for offences not yet com- mitred or with regard to accusations not so far levelled.

(3) The said power is not unguided or uncanalised but all the limitations imposed in the preceding Section 437. are implicit therein and must be read into Section 438.

(4) In addition to the limitations mentioned in Section 137, the petitioner must make out a special case for the exercise of the power to grant anticipatory ball.

(5) Where a legitimate case for the remand of the offender to the police custody under Section 167 (2) can be made out by the investigating agency or a reasonable claim to secure incriminating material from information likely to be received from the offender under Section 27 of the Evidence Act can be made out, the power under Section 438 should not be exercised.

(6) The discretion under Section 438 cannot be exercised with regard to offences punishable with death or imprisonment for life unless the court at that very stage is satisfied that such a charge appears to be false or groundless,

(7) The larger interest of the public and State demand that in serious cases like economic offences involving blatant corruption at the higher rungs of the executive and political power, the discretion under Section 438 of the Code should not be exercised; and

(8) Mere general allegations of mala fides in the petition are inadequate. The court must be satisfied on materials before it that the allegations of mala fides are substantial and the accusation appears to be false and groundless.

It was urged before the Full Bench that the appellants were men of substance and position who were hardly likely to abscond and would be prepared willingly to face trial. This argument was rejected with the observation that to accord differential treatment to the appellants on account of their status will amount to negation of the concept of equality before the law and that it could hardly be contended that every man of status, who was intended to be charged with serious crimes, including the one under Section 409, IPC which was punishable with life imprisonment, "was entitled to knock at the door of the court for anticipatory bail". The possession of high status, according to the Full Bench, is not only an irrelevant

consideration for granting anticipatory bail but is, if anything, an aggravating circumstance."

6. <u>Arnesh Kumar vs State of Bihar &Anr (2014) 8 SCC 273 – para 5</u>

"5. Arrest brings humiliation, curtails freedom and casts scars forever. Lawmakers know it so also the police. There is a battle between the lawmakers and the police and it seems that the police has not learnt its lesson: the lesson implicit and embodied in CrPC. It has not come out of its colonial image despite six decades of Independence, it is largely considered Cas a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasised time and again by the courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then d proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive."

7. Criminal Major Acts.
8. Criminal Manual (2022).
9. The Constitution of India.

[9] Perused the observation made by the Hon'ble Supreme Court in the above citations made by the learned counsel for the petitioner and also the reliance made in the above mentioned Acts & Rules, this Court is of the view that considering the nature of case and the facts and circumstances as set out by the petitioner and respondents and discussion and observation made by this Court, this Court is of the view that the Hon'ble Supreme Court's observation made herein above are not maintainable/reliable in the petitioner's case.

[10] Mention is made here that due to apprehension of arrest the petitioner filed AB before the Ld. Sessions Judge, Thoubal. The Ld. Sessions Judge, interim relief with the following conditions:

"In the meantime, in the event of arrest of the petitioners by the personnel of Kakching PS, the petitioners be released on interim anticipatory ball till 06.12.2024 on their furnishing PR and surety bonds of Rs 50,000/- with the following conditions that the petitioners shall:

(i) co-operate with the investigating authority as and when required &

(ii) not leave the State of Manipur without prior permission of the Court.

Further, the OC/Kakching PS is directed to submit report before this Court on 06.12.2024 for hearing."

With condition to appear before the I.O. of the case on 03.12.2024 before 5:00 pm.

[11] Thereafter, the Ld. Sessions Judge after getting the bail objection report and after hearing both sides rejected the earlier interim bail order was rejected with the following observations:

"In the instant matter at hand, opportunity was given to the accused persons to co-operate with the investigation authority as one of the condition in the interim order dated 02.12.2024, however, they failed to comply with the conditions imposed by this Court while granting interim bail.

In the light of the above discussions and the materials submitted before me, the interim bail order dated 02.12.2024 is hereby vacated."

[12] The relevant sections in the present case are 191(2)/188/223/109/118(2)/324(4)/132 BNS and 3(2) (e) PDPP Act. As per the law laid down in the provisions, the alleged sections made in the present are serious in nature on top of that the nature of allegation set out in the prosecution as extracted above, the offence alleged against the accused/petitioner is of serious in nature. For this matter, this Court is relying on the guidelines set out in the above mentioned citations which were reproduced hereinabove.

Mayanglambam Prabha Devi v. State of Manipur and others, 2022 SCC Online Mani 449- para 28

"28. In so far as the grant of refusal of the anticipatory bail, the Hon'ble Apex Court in the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694*** *has laid down the parameters as under:*

"112. *The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:*

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
(iii) The possibility of the applicant to flee from justice;
(iv) The possibility of the accused's likelihood to repeat similar or other offences;
(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;
(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;
(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;
(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;
(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

Srikant Upadhyay and others v. State of Bihar and another, 2024 SCC Online SC 282- para 16, 21, 24.

"16. The core contention of the appellants is that the rejection of the application for anticipatory bail without considering the application on merits for the reason of issuance of proclamation under Section 82, Cr.P.C., is unsustainable. It is the further contended that at no stage, the appellants were "evading the arrest" or "absconding" but were only exercising their legal right to seek anticipatory bail. It is in the aforesaid circumstances that the learned Senior Counsel appearing for the appellants raised the contention that when an application for anticipatory bail is pending, the issuance of proclamation, following issuance of non-bailable warrant could not be a reason for non-considering the application for anticipatory bail on merits.

21. We are in full agreement with the view taken by the Gujarat High Court that filing of an anticipatory bail through an advocate would not and could not be treated as appearance before a court by a person against whom such proceedings, as mentioned above are instituted. The meaning of the term "absconded" has been dealt by us hereinbefore. We found that its etymological and original sense is that the accused is hiding himself. What is required as proof for absconding is the evidence to the effect that the person concerned was knowing that he was wanted and also about pendency of warrant of arrest. A detailed discussion is not warranted in this case to understand that the appellants were actually absconding. It is not in dispute that they were served with the "summons". The fact that bailable warrants were issued against them on 12.04.2022 is also not disputed, as the appellants themselves have produced the order whereunder bailable warrants were issued against them. We have already referred to Section 70 (2), Cr. P.C. which would reveal the position that once a warrant is issued it would remain in force until it is cancelled by the Court which issued it or until its execution. There is no case for the appellants that either of such events had occurred in this case to make the warrants unenforceable. They also got no case that their application was interfered with by a higher Court. That apart, it is a fact that the appellants themselves on 23.08.2022, moved a bail-cum-surrender application before the Trial Court but withdrew the same fearing arrest. It is also relevant to note that in the case on hand even while contending that they were before a Court, the appellants got no case that in terms of the provisions under Section 438 (1-B), Cr. P.C. an order for their presence before the Court was ordered either suo motu by the Court or on an application by the public prosecutor. When that be the circumstance, the appellants cannot be allowed to contend that they were not hiding or concealing themselves from arrest or that they were not knowing that they were wanted in a Court of law.

24. There can be no room for raising a contention that when an application is filed for anticipatory ball, it cannot be adjourned-without passing an order of Interim protection. A bare perusal of

Section 438 (1), Cr. P.C., would reveal that taking into consideration the factors enumerated thereunder the Court may either reject the application forthwith or issue an interim order for the grant of anticipatory ball. The proviso thereunder would reveal that if the High Court or, the Court of Sessions, as the case may be, did not pass an interim order under this Section or has rejected the application for grant of anticipatory ball, it shall be open to an officer in-charge of a police station to arrest the person concerned without warrant, on the basis of the accusation apprehended in such application. In view of the proviso under Section 438(1), Cr. P.C., it cannot be contended that if, at the stage of taking up the matter for consideration, the Court is not rejecting the application, it is bound to pass an interim order for the grant of anticipatory bail. In short, nothing prevents the court from adjourning such an application without passing an interim order. This question was considered in detail by a Single Bench of the High Court of Bombay, in the decision in Shrenik Jayantilal Jain v. State of Maharashtra Through EOW Unit II, Mumbai and answered as above and we are in agreement with the view that in such cases, there will be no statutory inhibition for arrest. Hence, the appellants cannot be heard to contend that the application for anticipatory bail filed in November, 2022 could not have been adjourned without passing interim order. At any rate, the said application was rejected on 04.04.2023. Pending the application for anticipatory ball, in the absence of an interim protection, if a police officer can arrest the accused concerned how can it be contented that the court which issued summons on account of non-obedience to comply with its order for appearance and then issuing warrant of arrest cannot proceed further in terms of the provisions under Section 82, Cr.. P.C., merely because of the pendency of an application for anticipatory bail. If the said position is accepted the same would be adopted as a ruse to escape from the impact and consequences of issuance of warrant for arrest and also from the issuance of proclamation under Section 82, Cr. P.C., by filing successive applications for anticipatory bail. In such circumstances, and in the absence of any statutory prohibition and further, taking note of the position of law which enables a police officer to arrest the applicant for anticipatory bail if pending an application for anticipatory bail the matter is adjourned but no interim order was passed. We have no hesitation to answer the question posed for consideration in the negative. In other words, it is made clear that in the absence of any interim order, pendency of an application for anticipatory bail shall not bar the Trial Court in issuing/proceeding with steps for proclamation and in taking steps under Section 83, Cr. P.C., In accordance with law."

In **Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379,** the Hon'ble Apex Court elucidated the principles for consideration of grant of anticipatory bail, which are as under:

> *"19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. (See D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Hussain, (2008) 1 SCC 213, and Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305)."*

[13] Considering the guidelines set out in the above mentioned Hon'ble Supreme Court's judgments, this Court is of the view that the nature and allegations made in the present prosecution case against the accused/petitioner is of such a serious offence that the present case is squarely covered by the observation made herein above by the Hon'ble Supreme Court because:-

(i) The alleged offences made in the FIR are serious in nature.

(ii) There are four FIR cases registered against the accused person.

(iii) After getting the interim order from the Sessions Judge, Thoubal, the present accused/petitioner failed to comply with the conditions imposed in the said bail order.

(iv) As per the accusation made in the FIR and nature of the facts mentioned therein does not seem that the object of the police for trying to arrest does not seem to be for injury or humiliating the accused/petitioner.

Considering the prayer of the petitioner, the balance is in favour of the prosecution.

[14] On over all analysis of the materials produced by both sides, this Court is of the view that considering the nature and gravity of the offence leveled against the petitioner, this Court is of the view that granting anticipatory bail to the petitioner who is not cooperating with the investigation is in-appropriate.

[15] As per the submission of the learned counsel for the petitioner, the accused/petitioner went to Kakching Police Station on 03.12.2024 at 3:00 pm but no one was found in the police station. And the petitioner did not report his visit to the police station. The learned counsel for the petitioner fervently submits that there is no disobedient of the Court's order on the part of the petitioner as directed he appear before the Police Station on the mentioned date.

But, it was admitted that other than the above mentioned date the petitioner/accused did not visit/go to the police station again.

[16] As per the prosecution and as mentioned in the bail objection report and as reflected in the order of the Ld. Sessions Judge, Thoubal the petitioner/accused visited the Kakching Police Station on 03.12.2024 at 3:00 pm but at that OC Kakching and IO of the case were engaged heavily in numerous other case and inform the petitioner/accused to appear before the I.O. on the next date but the petitioner/accused didn't appear again. After going through the above mentioned development other than the facts and circumstances of the case and considering the conditions imposed on the petitioner/accused by the Ld. Sessions Judge, Thoubal while granting interim bail, this Court is of the considered view that assuming but not

admitting that the petitioner visited Kakching Police Station on 03.12.2024 at 3:30 pm with his lawyer he should atleast registered his appearance before the Police Station by informing the police station. However, the petitioner has not done the basic necessary requirement of his visit before the police station in spite of his visiting there with his lawyer.

[17] Mention is also made here that there are 4(four) FIRs registered against the accused/petitioner including the present FIR and 3 others one is registered in the year 2023.

[18] As reported by the prosecution that the accused/petitioner appeared before the police station on 03.12.2024 but as both IO as well as the OC were heavily engaged in some other cases he was advised to visit the next date. As discussed earlier and as reflected in the order of the Ld. Sessions Judge, Thoubal the interim protection was granted till 06.12.2024, the accused/petitioner if at all desired to assist the investigation of the case he should have visit the police station in subsequent days. In this circumstances, this court is of the view that the accused/petitioner violate/disobeyed the condition put forth by the Ld. Sessions Judge, Thoubal in this regards the Hon'ble Supreme Court in the catena of judgment observed as thus.

[19] In ***Srikant Upadhay and others vs. State of Bihar & Another, [(2024) SCC Online SC 282],*** the Hon'ble Supreme Court observed that*:*

> *"10. When a Court grants anticipatory bail what it actually does is only to make an order that in the event of arrest, the arrestee shall be released on bail, subject to the terms and conditions. Taking note of the fact the said power is to be exercised in exceptional circumstances and that it may cause some hindrance to the normal flow of investigation method when called upon to exercise the*

power under section 438, Cr.P.C., courts must keep reminded of the position that law aides only the abiding and certainly not its resistant. By saying so, we mean that a person, having subjected to investigation on a serious offence and upon making out a case, is included in a charge sheet or even after filing of a refer report, later, in accordance with law, the Court issues a summons to a person, he is bound to submit himself to the authority of law. It only mean that though he will still be at liberty, rather, in his right, to take recourse to the legal remedies available only in accordance with law, but not in its defiance. We will dilate this discussion with reference to the factual matrix of this case. However, we think that before dealing with the same, a small deviation to have a glance at the scope and application of the provisions under Section 82, Cr.P.C. will not be inappropriate.

16.The core contention of the appellants is that the rejection of the application for anticipatory bail without considering the application on merits for the reason of issuance of proclamation under Section 82, Cr.P.C., is unsustainable. It is the further contended that at no stage, the appellants were "evading the arrest" or "absconding" but were only exercising their legal right to seek anticipatory bail. It is in the aforesaid circumstances that the learned Senior Counsel appearing for the appellants raised the contention that when an application for anticipatory bail is pending, the issuance of proclamation, following issuance of nonbailable warrant could not be a reason for non-considering the application for anticipatory bail on merits.

18. Section 70 (2), Cr.P.C. mandates that every warrant issued under Section 70(1), Cr.P.C. shall remain in force until it is cancelled by the Court which issued it, or until it is executed. In this case, as noticed hereinbefore, the bailable warrants and thereafter the non-bailable warrants, were issued against the appellants. They were neither cancelled by the Trial Court nor they were executed. It is not their case that they have successfully challenged them. Sections 19, 20, 21, 174 and 174 A, IPC assume relevance in this context. They insofar as relevant read thus:

19. "Judge". The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body or persons, which body of persons is empowered by law to give such a judgment.

20. "Court of Justice". The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when a Judge or body of Judges is acting judicially.

21 "Public servant". The words "public servant denote a person falling under any of the descriptions hereinafter following, namely:-

[Third-Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions:]

3/4. Non-attendance in obedience to an order from public servant. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both, or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

174A. Non-appearance in response to a proclamation under section 82 of Act 2 of 1974. Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section (1) of section 82 of the Criminal Procedure Code, 1973 shall be punished with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under sub-section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with Imprisonment for a term which may extend to seven years and shall also be liable to fine.

19. Taking note of the aforesaid facts with respect to the issuance of summons, warrants and subsequently the proclamation, a conjoint reading of Sections 19, 20 and 21, IPC containing the terms "Judge", "Court of Justice" and "Public Servant" and Sections 174 and 174A, IPC can make them liable even to face further proceedings. Same is the position in case of non-attendance in obedience to proclamation under Section 82, Cr. P.C.

20. Bearing in mind the aforesaid provisions and position, we will refer to certain relevant decisions. In Savitaben Govindbhai Patel v. State of Gujarat, the High Court of Gujarat observed thus:-

> *"9. Filing of an Anticipatory Ball Application by the petitioners-accused through their advocate cannot be said to be an appearance of the petitioners-accused in a competent Court, so far as proceeding initiated under Section 82/83 of the Code is concerned: otherwise each absconding accused would try to create shelter by filing an Anticipatory Bail Application to avoid obligation to appear before the court and raises the proceeding under Section 83 of the Code claiming that he cannot be termed as an absconder in the eve of law. Physical appearance before the Court is most important, if relevant scheme of Sections 82 and 83, is read closely."*
> *(underline supplied)*

21. We are in full agreement with the view taken by the Gujarat High Court that filing of an anticipatory bail through an advocate would not and could not be treated as appearance before a court by a person against whom such proceedings, as mentioned above are instituted. The meaning of the term "absconded" has been dealt by us hereinbefore. We found that its etymological and original sense is that the accused is hiding himself. What is required as proof for absconding is the evidence to the effect that the person concerned was knowing that he was wanted and also about pendency of warrant of arrest. A detailed discussion is not warranted in this case to understand that the appellants were actually absconding. It is not in dispute that they were served with the "summons". The fact that bailable warrants were issued against them on 12.04.2022 is also not disputed, as the appellants themselves have produced the order whereunder bailable warrants were issued against them. We have already referred to Section 70 (2), Cr. P.C. which would reveal the position that once a warrant is issued it would remain in force until it is cancelled by the Court which issued it or until its execution. There is no case for the appellants that either of such events had occurred in this case to make the warrants unenforceable. They also got no case that their application was interfered with by a higher Court. That apart, it is a fact that the appellants themselves on 23.08.2022, moved a bail-cum-surrender application before the Trial Court but withdrew the same fearing arrest. It is also relevant to note that in the case on hand even while contending that they were before a Court, the appellants got no case that in terms of the provisions under Section 438 (1-B), Cr. P.C. an order for their presence before the Court was ordered either suo motu by the Court or on an application by the public prosecutor. When that be the circumstance, the appellants cannot be allowed to contend that they were not hiding or concealing themselves from arrest or that they were not knowing that they were wanted in a Court of law.

24. There can be no room for raising a contention that when an application is filed for anticipatory ball, it cannot be adjourned-without passing an order of Interim protection. A bare perusal of Section 438 (1), Cr. P.C., would reveal that taking into consideration the factors enumerated thereunder the Court may either reject the application forthwith or issue an interim order for the grant of anticipatory ball. The proviso thereunder would reveal that if the High Court or, the Court of Sessions, as the case may be, did not pass an interim order under this Section or has rejected the application for grant of anticipatory ball, it shall be open to an officer in-charge of a police station to arrest the person concerned without warrant, on the basis of the accusation apprehended in such application. In view of the proviso under Section 438(1), Cr. P.C., it cannot be contended that if, at the stage of taking up the matter for consideration, the Court is not rejecting the application, it is bound to pass an interim order for the grant of anticipatory bail. In short, nothing prevents the court from adjourning such an

application without passing an interim order. This question was considered in detail by a Single Bench of the High Court of Bombay, in the decision in Shrenik Jayantilal Jain v. State of Maharashtra Through EOW Unit II, Mumbai and answered as above and we are in agreement with the view that in such cases, there will be no statutory inhibition forarrest. Hence, the appellants cannot be heard to contend that the application for anticipatory bail filed in November, 2022 could not have been adjourned without passing interim order. At any rate, the said application was rejected on 04.04.2023. Pending the application for anticipatory ball, in the absence of an interim protection, if a police officer can arrest the accused concerned how can it be contented that the court which issued summons on account of non-obedience to comply with its order for appearance and then issuing warrant of arrest cannot proceed further in terms of the provisions under Section 82, Cr.. P.C., merely because of the pendency of an application for anticipatory bail. If the said position is accepted the same would be adopted as a ruse to escape from the impact and consequences of issuance of warrant for arrest and also from the issuance of proclamation under Section 82, Cr. P.C., by filing successive applications for anticipatory bail. In such circumstances, and in the absence of any statutory prohibition and further, taking note of the position of law which enables a police officer to arrest the applicant for anticipatory bail if pending an application for anticipatory bail the matter is adjourned but no interim order was passed. We have no hesitation to answer the question posed for consideration in the negative. In other words, it is made clear that in the absence of any interim order, pendency of an application for anticipatory bail shall not bar the Trial Court in issuing/proceeding with steps for proclamation and in taking steps under Section 83, Cr. P.C., In accordance with law.

25. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that ball is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s)

continuously, defying orders and keep absconding is not entitled to…."

[20] In ***Sushila Aggarwal v. State (NCT of Delhi), [(2020) 5 SCC 1]*** the Hon'ble Supreme Court observed that:

> ***"34.*** *It was argued that undoubtedly violation of a condition imposed in an order passed under Section 438 can lead to a direction of arrest under Section 439(2). However, the scope of Section 439(2) is not limited to only cancellation of bail. The counsel stated that this proposition of law was considered by this Court in Pradeep Ram v. State of Jharkhand, 2016 SCC Online Jhar 3254. In this case, this Court while considering an earlier judgment in Mithabhai Pashabhai Patel v. State of Gujarat, (2009) 6 SCC 332 held that by virtue of Sections 437(5) and 439(2), a direction to take a person into custody could be passed despite his being released on bail, by a previous order. The Court held that under Sections 437(5) and 439(2) a person could be directed to be taken into custody without necessarily cancelling his earlier bail. The difference between cancellation of bail and a direction to take a person into custody under Section 439(2) was recognised. It was also held in this case that if a graver offence is added to the FIR or to the case after the person has been granted bail, a direction under Section 439(2) or 437(5) is required before such person can be arrested again for the new offences added to the case. Therefore, this Court recognised the need for the court's supervision after the bail had been granted.*
>
> *……*
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> *……*
>
> *68.* *The imposition of conditions under Section 438(2) with reference to Section 437(3), in the opinion of this Court, is enough safeguard for the authorities — including the police and other investigating agencies, who have to investigate into crimes and the possible complicity of the applicants who seek such relief. Taking each concern i.e. the addition of more serious offences; presence of a large number of individuals or complainants; possibility of non-cooperation — non-cooperation in the investigation or the requirement of the accused's statement to aid the recovery of articles and incriminating articles in the course of statements made during investigations — it is noticeable, significantly, that each of these is contemplated as a condition and is invariably included in every order granting anticipatory bail. In the event of violation or alleged violation of these, the authority concerned is not remediless : recourse can be had to Section 438(2) read with Section 437(3). Any violation of these terms would attract a direction to arrest him. This power or direction to arrest is found in Section 437(5). However, that provision has no textual application to regular bail granted by the Court of Session or High Courts under Section 439 or directions not to arrest i.e. order of anticipatory bail under Section 438. Secondly, Section 439(2) which is cast in wide terms,*

adequately covers situations when an accused does not cooperate during the investigation or threatens to, or intimidates witness[es] or tries to tamper with other evidence.

……

……

77.4. At the same time, however, at any time during the investigation were any occasion to arise calling for intervention of the court for infraction of any of the conditions imposed under Section 437(3) read with Section 438(2) or the violation of any other condition imposed in the given facts of a case, recourse can always be had under Section 439(2).

……

……

85.8. It is open to the police or the investigating agency to move the court concerned, which granted anticipatory bail, in the first instance, for a direction under Section 439(2) to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc. The court, in this context, is the court which grants anticipatory bail, in the first instance, according to prevailing authorities."

[21] In ***Himanshu Sharma v. State of M.P., [(2024) 4 SCC 222]*** the Hon'ble Supreme Court observed that:

"11. *Law is well settled by a catena of judgments rendered by this Court that the considerations for grant of bail and cancellation thereof are entirely different. Bail granted to an accused can only be cancelled if the Court is satisfied that after being released on bail:*

(a) the accused has misused the liberty granted to him;
(b) flouted the conditions of bail order;
(c) that the bail was granted in ignorance of statutory provisions restricting the powers of the Court to grant bail;
(d) or that the bail was procured by misrepresentation or fraud."

[22] In ***Puran v. Rambilas, [(2001) 6 SCC 338]*** the Hon'ble Supreme Court observed that:

"10. Mr Lalit next submitted that once bail has been granted it should not be cancelled unless there is evidence that the conditions of bail are being infringed. In support of this submission he relies upon the authority in the case of Dolat Ram v. State of Haryana, (1995) 1 SCC 349. In this case it has been held that rejection of bail in a non-bailable case at the initial stage and the cancellation of bail

already granted have to be considered and dealt with on different basis. It has been held that very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail already granted. It has been held that generally speaking the grounds for cancellation of bail broadly are interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. It is, however, to be noted that this Court has clarified that these instances are merely illustrative and not exhaustive. One such ground for cancellation of bail would be where ignoring material and evidence on record a perverse order granting bail is passed in a heinous crime of this nature and that too without giving any reasons. Such an order would be against principles of law. Interest of justice would also require that such a perverse order be set aside and bail be cancelled. It must be remembered that such offences are on the rise and have a very serious impact on the society. Therefore, an arbitrary and wrong exercise of discretion by the trial court has to be corrected."

[23] In ***2023 Livelaw (SC) 731 : 2023 INSC 779 [Abhishek vs State of Madhya Pradesh]***, the Hon'ble Supreme Court observed that:

"17. In Bhajan Lal (Supra), this Court had set out, by way of illustration, the broad categories of cases in which the inherent power under section 482 Cr.P.C. could be exercised. Para 102 of the decision reads as follows:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an

investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding 9 against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

[24] In ***2022 SCC Online Mani 449 : (2023) 1 GLT 187 in Mayanglambam Prabha Devi vs. State of Manipur***, the High Court of Manipur observed as follows:

"28. In so far as the grant of refusal of the anticipatory bail, the Hon'ble Apex Court in the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694*** *has laid down the parameters as under:*

"112. *The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:*

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or other offences;

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

29. In ***Jai Prakash Singh vs State of Bihar, (2012) 4 SCC 379,*** *the Hon'ble Apex Court elucidated the principles for consider of grant of anticipatory bail, which are as under:*

> *"19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. (See D.K. Ganesh BabuVs. P.T. Monokaran, (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Susain, (2008) 1 SCC 213, and Union of India v Padam Narain Aggarwal, (2008) 13 SCC 305)."""*

[25] The factual narration made herein before reveal the consistence disobedience of the accused/petitioner to comply with the orders of the Ld. Sessions Judge, Thoubal as even knowing about the protection given by the Ld. Sessions Judge, Thoubal is given till 06.12.2024, the accused/petitioner did not try to appear before the IO of the case on the subsequent date i.e. after 03.12.2024. Such conduct of the accused/petitioner in the light of the aforesaid circumstance leaves this Court with no hesitation to hold that the accused/petitioner is not entitled to seek the benefit of pre-arrest bail.

[26] As the guidelines relied by the Hon'ble Supreme Court made in ***Gurbaksh Singh Sibbia*** case are totally against the petitioner to get his relief as considering the nature of power given under Section 438 which is of an extraordinary character and the same must be exercised sparingly in exceptional cases, the present case as set out by the petitioner for getting relief does not come under exceptional cases, the limitation imposed in the preceding Section 437, limits the exercise of Section 438, the petitioner failed to make out a special case for exercise of the power to grant anticipatory bail, considering the serious nature of the case, the discretion under Section 438 of the Code should not be exercised, the investigating authority as well as the orders of Ld. Sessions Judge, Thoubal did not commit malafide in their investigation as well as in the order.

[27] The present application for anticipatory bail is filed under Section 482 of BNSS, 2023. The legal principles applicable apropos Section 482 therein, it was observed that an accused comes before the High Court, invoking the inherent power under Section 482 Cr.P.C. essentially on the ground that the Ld. Sessions Judge, Thoubal failed to appreciate the affidavit submitted by the counsel for the petitioner that the petitioner had appeared before the I.O. of the case on 03.12.2024, the I.O. failed to reflect the report that he appeared before the I.O. on 03.12.2024, no summon/notice was served to the accused/petitioner by the police, the similarly situated incumbents were already released by the Judicial Magistrate First Class, Kakching, this Court considered the grounds taken herein above by the accused/petitioner, but as per the available facts and circumstances of the case and submissions made herein above by the learned counsel for the petitioner, this Court is of the view that the grounds taken herein above by the accused/petitioner are not acceptable.

In this regard, this Court is relying on the categories of cases in which, the inherent power under Section 482 of Cr.P.C. could be exercised by the High Court as set out in Bhajan Lal's case made at Para No. 102 and the same is reproduced herein below:

> *"17. In Bhajan Lal (supra), this Court had set out, by way of illustration, the broad categories of cases in which the inherent power under Section 482 Cr.P.C. could be exercised. Para 102 of the decision reads as follows:*
>
> > *'102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the inherent powers under Section 482 of the Code which we have extracted and reproduced above,*

we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirely do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever each a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

[28] On over all analysis of the materials produced by both sides and reliance made by both parties on the cited Hon'ble Supreme Court's cases and discussion and observation in this regard made by this Court, this Court is of the view that the present application for granting anticipatory bail is liable to be dismissed.

[29] Accordingly, this Court finds the accused/petitioner commits violation of the condition imposed in the anticipatory bail orders passed by the Ld. Sessions Judge, Thoubal. This Court is of the view that the above extracted observation made in the Supreme Court Judgments are wholly sufficient for this Court to come to the conclusion that the present application filed by the accused/petitioner for anticipatory bail liable to be dismissed.

[30] Accordingly, the present anticipatory bail application filed by the accused/petitioner is rejected.

JUDGE

FR/NFR

Lucy/Bipin