



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 21ST DAY OF AUGUST 2025 / 30TH SRAVANA, 1947

BAIL APPL. NO. 9616 OF 2025

CRIME NO.208/2025 OF ELAMAKKARA POLICE STATION, Ernakulam

PETITIONER/ACCUSED NO.2:

SREEJITH K., AGED 21 YEARS
S/O, KRISHNAN, 10/118C, SJD ROAD, AMARAVATHY,
KOCHI, ERNAKULAM DISTRICT, PIN - 682001

BY ADVS.
SRI.SALIM V.S.
SRI.SHANAVAS.S
SHRI.K.MUHAMMED THOYYIB
SRI.M.M.ANSAR
SMT.A.M.FOUSHI
SHRI.A.B.AJIN

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, PIN - 682031

SRI. NOUSHAD K. A., PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.08.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



BECHU KURIAN THOMAS, J.

.....
B.A.No.9616 of 2025
.....

Dated this the 21st day of August, 2025

ORDER

This bail application is filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS').

2. Petitioner is the second accused in Crime No.208 of 2025 of Elamakkara Police Station, Ernakulam, registered for the offences punishable under Sections 20(b)(ii)(A), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [for brevity, 'NDPS Act'].

3. According to the prosecution, on 25.04.2025 at about 4.05 p.m., the first accused was found in possession of 16 LSD stamps having a weight of 1.40 grams and 8 grams of hashish oil from his house and the second accused is alleged to have contributed money for purchasing the contraband and thereby the accused committed the offences alleged. Petitioner was arrested on



24.05.2025 and he has been in custody since then.

4. Heard Adv.V.S.Salim, the learned Counsel for the petitioner as well as Sri.Noushad K.A., the learned Public Prosecutor.

5. The learned counsel for the petitioner submitted that the petitioner has been in custody since 24.05.2025. It was also submitted that the grounds for arrest were not communicated to the petitioner or his relatives at the time of his arrest.

6. The learned Public Prosecutor opposed the bail application and submitted that the grounds for arrest were communicated to the petitioner at the time of his arrest. It was also submitted that since the contraband seized from the petitioner was a commercial quantity, the rigour under Section 37 of NDPS Act will apply and hence petitioner ought not to be released on bail. It was further submitted that petitioner is involved in two other cases, of which one case is under Section 27(b) of the NDPS Act.

7. Though *prima facie* there are materials on record to connect the petitioner with the crime, since petitioner has raised



the question of absence of communication of the grounds for his arrest, this Court is obliged to consider the said issue.

8. In the decisions in **Pankaj Bansal v. Union of India and Others**, [(2024) 7 SCC 576], **Prabir Purkayastha v. State (NCT of Delhi)** [(2024) 8 SCC 254] and **Vihaan Kumar v. State of Haryana** [AIR 2025 SC 1388], it has been held that the requirement of informing a person of grounds for arrest is a mandatory requirement of Article 22(1) and also that the said information must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds must be communicated to the arrested person effectively in the language which he understands.

9. In a recent decision in **Shahina v. State of Kerala** [2025 KHC Online 706], this Court has also considered the impact of the aforesaid principles in relation to offences alleged under the NDPS Act and held that the grounds for arrest must be communicated.

10. On a perusal of the case diary it is noticed that the



arrest intimation does not specifically mention any grounds for arrest, however, separate detailed grounds for arrest have been served on the petitioner on 24.05.2025, which is the date of arrest of the petitioner. However, in the arrest intimation given to the mother of the petitioner, there is nothing mentioned as grounds for arrest, except for a reference to the provisions of law. Though the learned Public Prosecutor pointed out that the mother of the petitioner was informed about the arrest of the petitioner through phone, there are no contemporaneous records or materials to show that the grounds for arrest were conveyed to the relative of the arrestee, at least over phone. In the absence of any material to convince this Court that the grounds for arrest were communicated to the near relative of the petitioner, I am of the view that the principles laid down in the decision in **Vihaan Kumar** [supra] and **Kasireddy Upender Reddy v. State of Andhra Pradesh and Others [2025 SCC OnLine SC 1228]** have not been complied with.

11. Though the learned Public Prosecutor pointed out that



petitioner is involved in two other crimes, of which, one is under Section 27(b) of the NDPS Act and that the investigation is still pending, it is noticed that petitioner is only 19 years in age and there are no antecedents against him. Taking into account the above circumstances, which are peculiar to the petitioner, I am of the view that he can be granted bail notwithstanding the fact that the investigation is still continuing.

In the result, this application is allowed on the following conditions:-

- (a) Petitioner shall be released on bail on him executing a bond for Rs.1,00,000/- (Rupees One Lakh only) with two solvent sureties each for the like sum to the satisfaction of the court having jurisdiction.
- (b) Petitioner shall co-operate with the trial of the case.
- (c) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he attempt to tamper with the evidence.



(d) Petitioner shall not commit any similar offences while he is on bail.

(e) Petitioner shall not leave the State of Kerala without the permission of the jurisdictional Court.

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

Sd/-
BECHU KURIAN THOMAS
JUDGE

sp/21/08/2025



2025:KER:63374

APPENDIX OF BAIL APPL. 9616/2025

PETITIONER ANNEXURES

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| Annexure 1 | THE TRUE COPY OF THE FIR DATED 25.04.2025
IN CRIME NO.208/2025 OF THE ELAMAKKARA
POLICE STATION, ERNAKULAM DISTRICT. |
| Annexure 2 | THE TRUE COPY OF THE ORDER DATED
17.06.2025 PASSED BY THE SESSIONS COURT,
ERNAKULAM IN CRL. MC NO. 1661/2025 |
| Annexure 3 | A TRUE COPY OF THE ORDER DATED 09.07.2025
IN CRL.MC. NO. 1909/2025 OF THE HONORABLE
SESSIONS COURT, ERNAKULAM |