2026:KER:84900

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

THURSDAY, THE 5TH DAY OF NOVEMBER 2026 / 14TH KARTHIKA, 1948

BAIL APPL. NO. 6615 OF 2026

CRIME NO.499/2026 OF CHERANALLOOR POLICE STATION, ERNAKULAM

PETITIONER/ACCUSED NO.2:

BY ADVS.
SRI.VIJAYABHANU (SR.)
SRI.V.JOHN SEBASTIAN RALPH
SRUTHY N. BHAT
SRI.THOMAS J.ANAKKALLUNKAL
SMT.ANUPA ANNA JOSE KANDOTH
SHRI.VISHNU CHANDRAN
SHRI. RALPH RETI JOHN
SHRI.GIRIDHAR KRISHNA KUMAR
SMT.GEETHU T.A.
SMT.MARY GREESHMA
SMT.LIZ JOHNY
SMT.KRISHNAPRIYA SREEKUMAR
SHRI.ABHIJITH P.S
SHRI.ASHUTHOSH P. KAMATH

RESPONDENTS/COMPLAINANT:

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

2 STATION HOUSE OFFICER,
CHERANALLOOR POLICE STATION
CHERANALLOOR RD, CHERANALLUR,
KOCHI, ERNAKULAM,
KERALAM, PIN - 682034

3 BINDHU JAYABALAKRISHNAN
AGED 50 YEARS,
W/O. LATE. S.R.JAYABALAKRSHNAN,
PUTHENPARAMBIL HOUSE,
SREEKRSHNA SWAMI TEMPLE,
CHERANELLOORE, CHITTOOR P.O,
ERNAKULAM DISTRICT, PIN-682027

4 BHADRAKEERTHY RJ
AGED 24 YEARS,
D/O. LATE. S.R.JAYABALAKRSHNAN,
PUTHENPARAMBIL HOUSE,
SREEKRSHNA SWAMI TEMPLE,
CHERANELLOORE, CHITTOOR P.O,
ERNAKULAM DISTRICT ,PIN-682027

5 BHARATH SANKAR RJ
AGED 26 YEARS,
S/O. LATE. S.R.JAYABALAKRSHNAN,
PUTHENPARAMBIL HOUSE,
SREEKRSHNA SWAMI TEMPLE,
CHERANELLOORE, CHITTOOR P.O,
ERNAKULAM DISTRICT,PIN-682027

ADDL.R3 TO R5 ARE IMPLEADED AS PER ORDER DATED 29/10/26 IN CRL.M.A.1/26 IN BA.6615/26

BY ADV SRI.M.G.SREEJITH
SRI.MOHAMMED SHAFI M., ADGP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05.11.2026, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R

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

2. The applicant is the accused No.2 in Crime No.499/2026 of Cheranalloor Police Station, Ernakulam District. The offences alleged are punishable under Section 105 of the Bharatiya Nyaya Sanhita, 2023 (for short, 'the BNS') read with Sections 181, 183, 199A(1) and 199A(2) of the Motor Vehicles Act, 1988 (for short,' the MV Act').

3. The prosecution case, in short, is as follows:- On 25.10.2026, at about 02.20 a.m, the Child in Conflict with Law (CCL), who was initially arrayed as the sole accused, without possessing a valid driving licence, drove the Mercedes Benz car bearing Registration No.KL-46-F-0333, owned by the applicant, at an excessive speed and in a rash and negligent manner from west to east along the Vallarpadam-Container

Road. When the said car reached near the Kairali Ford Car Showroom at Marapprambu, Cheranelloor, it hit the scooter bearing Registration No.KL-07-CW-6853, which was proceeding ahead in the same direction, thereby causing the death of Jayabalakrishnan (55), who was riding the said scooter.

4. I have heard Sri.P.Vijayabhanu, the learned Senior Counsel, as instructed by Sri.V.John Sebastian Ralph, the learned counsel for the applicant, Sri.M.Mohammed Shafi, the learned Additional Director General of Prosecution (for short, 'ADGP') and Sri.M.G.Sreejith, the learned counsel for the respondent Nos.3 to 5, the legal heirs of the deceased Jayabalakrishnan. Perused the case diary as well as the statement of objection filed by the respondent Nos.3 to 5.

5. The learned Senior Counsel appearing for the applicant submitted that the applicant has been wrongly implicated in the crime and that he is innocent of the allegations levelled against him. The learned Senior Counsel

further submitted that Section 105 of the BNS cannot be invoked against the applicant since he had neither the requisite intention nor the knowledge necessary to attract the said provision. The learned Senior Counsel also submitted that the CCL had taken the vehicle from the home of the applicant at midnight without his knowledge while he was asleep and hence the provisions of Sections 199A(1) and 199A(2) of the MV Act also cannot be attributed against him. On the aforesaid premises it was argued that the applicant is entitled to the relief of pre-arrest bail.

6. The learned ADGP as well as the learned counsel for the respondent Nos.3 to 5, however, opposed the application, contending that the CCL, who is a minor and does not possess a driving licence, took and drove the vehicle with the knowledge and consent of the applicant. They further submitted that the custodial interrogation of the applicant is absolutely necessary to prove his involvement in the crime and, hence, he cannot be granted pre-arrest bail.

7. The non-bailable offences alleged are under Section 105 of the BNS and Sections 199A(1) and 199A(2) of the MV Act. The respondent No.2 initially registered the crime against the CCL only and subsequently implicated the applicant as the accused No.2 on the premise that the vehicle stands in his name and the CCL drove the vehicle and committed the offence with his knowledge. Section 105 of the BNS requires explicit *mens rea,* specifically, the knowledge that the act is likely to cause death. Section 199A(1) of the MV Act is attracted where an offence under the Act is committed by a juvenile with the knowledge of the guardian of such juvenile or the owner of the motor vehicle. The definite case of the applicant is that he had no knowledge whatsoever that the vehicle had been removed by his son from his house and that it was only upon receiving a telephone communication from his son at 02.14 a.m. that the vehicle had met with an accident, he came to know that his son had secretly taken out the vehicle while he was asleep. The learned Senior

Counsel for the applicant submitted that attributing knowledge under Section 105 of the BNS vicariously to a parent who was sleeping at home when a minor took a vehicle surreptitiously is fundamentally opposed to settled principles of criminal law. At any rate, the prosecution does not attribute any direct criminal act or *mens rea* on the applicant. The only allegation is that the applicant allowed the CCL to drive the vehicle, knowing well that he did not possess a valid licence. The said disputed fact is a matter to be proved during trial.

8. The records would show that, in response to the notice issued under Section 35(3) of the BNSS, the applicant appeared before the investigating officer of the Special Investigation Team on 28.10.2026 at 2 p.m. and he was thoroughly interrogated for four hours. Thereafter, again on the next day, as directed by this Court in the interim order dated 29.10.2026, the applicant appeared before the investigating officer and he was again interrogated for two

hours. The records and the statement of objection submitted by the State would show that a search was conducted at the house of the applicant and his laptop, mobile phones and other articles were already seized. The offending vehicle has also been seized by the police. The electronic gadgets seized from the applicant's house were sent for chemical analysis. The statement of objection submitted by the State would further show that the investigation has reached an advanced stage.

9. The applicant is a serving judicial officer in the cadre of District and Sessions Judge in the State of Kerala. There is no possibility at all that he will abscond or evade the process of law. The learned Senior Counsel for the applicant submitted that the applicant is ready to cooperate with the investigation and he is ready to appear before the investigating officer as and when directed. The applicant does not have any criminal antecedents. Considering the allegations made against the applicant, his custodial

interrogation seems unnecessary. For these reasons, I find this to be an appropriate case to grant pre-arrest bail to the applicant.

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

(i) The applicant shall be released on bail in the event of his arrest on executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the arresting officer/investigating officer, as the case may be.

(ii) The applicant shall fully cooperate with the investigation, including subjecting himself to the deemed police custody for discovery, if any, as and when demanded.

(iii) The applicant shall appear before the investigating officer as and when required.

(iv) The applicant shall not commit any offence of a like nature while on bail.

(v) The applicant shall not attempt to contact any of

the prosecution witnesses, directly or through any other person, or in any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

Sd/-
DR. KAUSER EDAPPAGATH,
JUDGE

APA

APPENDIX OF BAIL APPL. NO. 6615 OF 2026

PETITIONER ANNEXURES

ANNEXURE 1	**TRUE COPY OF THE FIR IN CRIME NO. 499/2026 OF CHERANELLORE POLICE STATION, ERNAKULAM**
ANNEXURE 2	**TRUE COPY OF THE ORDER DATED 25.10.2026 IN CMP NO 1/2026 IN CR. NO. 499/2026 OF CHERANELLORE POLICE STATION ON THE FILES OF THE COURT OF PRINCIPAL MAGISTRATE (JUVENILE JUSTICE BOARD, ERNAKULAM)**
ANNEXURE 3	**TRUE COPY OF THE SEARCH WARRANT DATED 27.10.2026 ISSUED BY THE JUDICIAL FIRST CLASS MAGISTRATE COURT- III, ERNAKULAM**
ANNEXURE 4	**TRUE COPY OF THE S. 35(3) NOTICE DATED 27.10.2026 ISSUED TO THE APPLICANT**
ANNEXURE 6	**A SCREENSHOT OF THE WHATSAPP CHAT**