

**SESSIONS DIVISION, KALPETTA
IN THE COURT OF THE SESSIONS JUDGE, KALPETTA, WAYANAD**

Present: Sri.Ayyoobkhan E., Sessions Judge, Kalpetta

Saturday, this the 25th day of April, 2026
05th day of Vaisakha, 1948

BAIL APPLICATION No.172/2026
Crime No.175/2026 of Sulthan Bathery Police Station

1. Biju V.P., Aged 45 years, S/o. Govindan, Variyathparabil House, Choorimala, Sulthan Bathery Post & Taluk, Wayanad District. 2. Vineesh V.P., Aged 40 years, S/o. Govindan, Variyathparabil House, Choorimala, Sulthan Bathery Post & Taluk, Wayanad District.	}	Petitioners/ Accused Nos.3 & 4
Vs.		
The State of Kerala Represented by Station House Officer, Sulthanbathery Police Station, through Public Prosecutor, Kalpetta.	}	Respondent/ State

This petition is filed under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) to grant regular bail to the Petitioners/Accused No.s 3 & 4 in crime No.175/2026 of Sulthan Bathery Police Station.

This petition is coming on 24th day of April, 2026 for final hearing before me in the presence of Sri.A.J.Antony, Advocate for the Petitioners/Accused Nos.3 and 4 and Sri.Aby Cheriyan, Public Prosecutor for the Respondent/State and upon hearing both sides and perusing the petition and having stood over for consideration to this day, the Court passed the following:

ORDER

This is an application for bail filed u/s. 483 Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) on behalf of accused Nos.3 and 4 in Crime No.175/2026 of Sulthanbathery Police Station.

2. The above crime was registered u/ss. 3 r/w 25(1B)(a) and 35 of the Arms Act.

3. The prosecution case in brief is that on 08.02.2026 at 3:00 a.m., in the coffee plantation of Beenachi Estate owned by the Government of Madhya Pradesh at Beenachi in Sulthan Bathery village, within the jurisdiction of South Wayanad Division, Chethalath Range, under Irulam Forest Station, the accused used a country-made gun to shoot and kill a porcupine. Thus, according to the prosecution, the accused have committed the aforesaid offence.

4. The petition averments in brief are as follows:- The crime was registered on 16.02.2026 by Sulthan Bathery Police based on the Forest Range Officer's report alleging seizure of a country made gun from Beenachi Estate while accused Nos.1 and 2 hunted a porcupine at 2:00 AM on 08.02.2026. The petitioners were later arrayed as accused Nos.3 and 4 in Irulam Forest Station OR No.3/2026, though not named in the First Information Report. They first sought anticipatory bail in B.A.119/2026, which was dismissed by this court, and then they approached the Hon'ble High Court with B.A.1693/2026 which was disposed on 31.03.2026 directing surrender. Accordingly, they surrendered before the Investigating Officer on 06.04.2026. Their bail pleas filed before the jurisdictional court were dismissed. No recovery was made from them, conscious possession u/s. 25(1B)(a) of Arms Act is absent and investigation and recovery are complete, as noted by the High Court while granting anticipatory bail to accused Nos.1 and 2. The petitioners are siblings who belongs to Cheruma, a Scheduled Caste. Petitioner No.1 is an autorickshaw driver with two children aged 11 and 10, petitioner No.2 is a loading worker—permanent residents, sole breadwinners, with no antecedents, incapable of tampering with evidence or influencing official witnesses. Complaints have been filed by their sister against alleged vindictive action by Forest officials due to local animosity. The trial court overlooked *Arnesh Kumar v. State of Bihar*. In these circumstances, continued custody is unwarranted. The

petitioners are willing to abide by conditions. They affirm that no other bail petition has been filed by them before this or any other Court and undertakes not to file any further petition for the same relief until the disposal of the present one. Hence, this petition.

5. The learned Public Prosecutor has filed a detailed report opposing the bail application on the following grounds:- From the investigation conducted so far and from the questioning of the Forest Range Officer who detected the case along with the Forest staff present, it has become clear that accused Nos.1 and 2 together with accused Nos.3 and 4, who fled from the scene, had conspired and prepared to conduct hunting and on 08.02.2026, at 3:00 AM, in the coffee plantation of Beenachi Estate owned by the Government of Madhya Pradesh at Beenachi in Sulthan Bathery village, within the jurisdiction of South Wayanad Division, Chethalath Range, under Irulam Forest Station, unlawfully entered the premises with the guns brought by accused Nos.3 and 4 and using a country-made firearm, shot and killed a porcupine. In this case, accused Nos.1 and 2 obtained anticipatory bail from the Hon'ble Kerala High Court on 24.03.2026, were arrested on 28.03.2026 at 11:00 and 11:15 AM and released on bail. Accused Nos.3 and 4 appeared at the station on 06.04.2026 as per High Court directions, were arrested, produced before the Judicial First Class Magistrate Court-I, Sulthan Bathery, and remanded. From the scene, one country-made gun, 400 grams of gunpowder and lead pellets were seized and produced before court. Investigation reveals that accused Nos.3 and 4 had brought the gun used for hunting and carried another firearm while fleeing. Police custody of accused Nos.3 and 4 is sought to recover the additional firearm, trace the source of weapons and ammunition, verify licensing and collect forensic evidence. Granting bail at this stage risks witness intimidation, absconding, repetition of the offence and obstruction of investigation. Therefore, police custody is essential and bail for accused Nos.3 and 4 is opposed. Hence, it is prayed that the petition may be dismissed.

6. Heard the learned counsel for the petitioners and the learned Public Prosecutor and perused the report and case diary.

7. The learned counsel for the petitioners submitted that they are wholly innocent, falsely implicated only on the basis of statements of co-accused, that they have been in custody since 06.04.2026, and that they have no criminal antecedents. In opposition, the learned Public Prosecutor argued that the offences alleged under Sections 3 and 25(1B)(a) of the Arms Act are grave in nature and that the investigation is still incomplete, thereby justifying continued detention.

8. Subsequent to the dismissal of their pre-arrest bail application by this Court, the petitioners approached the Hon'ble High Court of Kerala, which by order dated 31.03.2026 directed them to surrender before the Investigating Officer. In compliance, they surrendered on 06.04.2026, their arrest was recorded and they were produced before the Judicial First Class Magistrate Court-I, Sulthan Bathery, where they were remanded to judicial custody. Their bail applications filed before that court were dismissed having regard to the gravity of the offences alleged.

9. On perusal of the case records, it is evident that while prima facie materials exist against the petitioners, their actual involvement is a matter for proof during trial. The report shows that investigation has progressed considerably and though the learned Public Prosecutor contended that it is still incomplete, there is no assertion that further custodial interrogation of the petitioners is required. It is also admitted that they have no criminal antecedents other than a Forest case connected to the same incident. Considering the custody undergone since 06.04.2026, the progress of investigation and the overall facts and circumstances, the petitioners are entitled to bail. The apprehensions raised by the prosecution can be addressed by imposing stringent conditions.

In the result, the petition is allowed and the petitioners/accused

Nos.3 and 4 are granted bail subject to the following conditions :

- 1) They shall execute a bond for ₹50,000/- (Rupees Fifty thousand only) each with two solvent sureties for the like sum each to the satisfaction of the Jurisdictional Magistrate.**
- 2) They shall appear before the Investigating Officer every second and fourth Saturday between 2:00 p.m. and 5:00 p.m., for a period of three (3) months or until the final report is filed, whichever is earlier.**
- 3) They shall not, either directly or indirectly, make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing those facts to the Court or to any officer concerned, nor shall they tamper with evidence in any manner.**
- 4) They shall not commit any offence while on bail.**

In case of violation of any of these conditions, the trial Court is at liberty to cancel the bail granted to the petitioners.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open Court, on this, the 25th day of April, 2026.)

SESSIONS JUDGE

To

The Judicial First Class Magistrate-I,
Sulthan Bathery.

Copy to

The Station House Officer,
Sulthan Bathery Police Station.