

IN THE COURT OF SESSION, KOZHIKODE DIVISION
Present:- Sri. R. Madhu, Sessions Judge (In charge)

Friday the 08th day of May 2026/18th day of Vysakham 1948

BAIL APPLICATION No. 646/2026

(Crime No. 61/2026 of Chemmangadu Police Station)

Between:-

Jayanth Nayik, aged 33/26,
S/o. Pion Nayik, ELT AIR Port Road,
Near Steem Mall, Bangalore, North
Post, H. A. Farms

} Petitioner/
Accused

And:-

State of Kerala, Rep. BySHO
Chemmangadu Police Station

} Respondent/Complainant

This petition filed u/s. 483 of BNSS praying to release the petitioners on bail, pending disposal of the case.

This petition coming on this the 07th day of April 2026 for final orders before me upon perusing the petition and upon hearing the arguments of **Sri. Peethambaran. P** Advocate for the petitioner and the **Public Prosecutor** for the State and having stood over to this day for consideration and the court passed the following:-

ORDER

This is an application for regular bail filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the 'BNSS') by the **Petitioner/Accused** in Crime No.61/2026 of Chemmangad Police Station. The said crime has been registered for the offences punishable under Sections 332(c), 324(1), 326(g) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as the 'BNS').

2. The case of the prosecution, in brief, is as follows:-

The prosecution allegation is that on 07.03.2026 at about 5:00 a.m., the accused criminally trespassed into the compound of St. Patrick Church at Francis Road and set fire to the Pallimeda, thereby causing damage to the same as well as to a Maruti car bearing Registration No. KL-10, AY-7449. Thus, according to the prosecution, the accused has committed the aforesaid offences.

3. The learned counsel for the petitioner submitted that the petitioner is innocent of the offences alleged against him and that the prosecution case is false and fabricated. It is submitted that the petitioner was arrested on 08.03.2026 and has been in judicial custody ever since. The bail application was preferred before the Judicial First Class Magistrate Court-II, Kozhikode, as C.M.P. No.04/2026, was dismissed on 31.03.2026. The learned counsel further submitted that the petitioner is a native of Karnataka and is not conversant with the Malayalam language. According to the learned counsel, the petitioner was arrested on the basis of mistaken information, and owing to his inability to communicate effectively in Malayalam, he could not properly explain the true facts before the police. The learned counsel lastly submitted that the petitioner is ready and willing to co-operate with the investigation and to abide by any conditions that may be imposed by this Court. On the above grounds, the petitioner seeks to grant bail.

4. The learned Public Prosecutor vehemently opposed the application and refuted the contentions raised by the petitioner. It is submitted that the investigation was not over. It is further contended that, if the petitioner is granted bail, there is a likelihood of tampering with evidence, influencing or intimidating witnesses, and evading the course of justice. The learned Public Prosecutor further submitted that there is prima facie evidence collected by the investigating officer to show that it is a petitioner who committed the said offence. Finally, he would submit that, if the petitioner is released on bail at this stage, the same would send a wrong message to the community.

5. Heard both sides.

6. This Court has perused the contents of the bail application, the report filed by the respondent, and the case diary. From the report, it is revealed that the petitioner has been in judicial custody since 08.03.2026. It is also seen that no criminal antecedents have been reported against the petitioner. On a perusal of the case diary, it is revealed that the statements of around 40 witnesses have been recorded and that the CCTV footage from the

vicinity of the entrance has also been recovered. From the statements of the witnesses, a prima facie case appears to have been made out against the petitioner. At the same time, it is to be noted that further custodial interrogation of the petitioner is not necessary and that the investigation is almost complete, with only the filing of the final report before the jurisdictional Magistrate Court remaining. Considering the aforesaid circumstances, and also taking note of the prolonged period of incarceration already undergone by the petitioner, this Court is inclined to enlarge the petitioner on bail, subject to appropriate conditions.

7. It is a well accepted principle that the bail is the rule and the jail is the exception. The Hon'ble Supreme Court in **Chidambaram P. v Directorate of Enforcement (2019 (16) SCALE 870)**, after considering all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same in as much as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial.

8. Again our Apex Court in **Siddharth v. State of Uttar Pradesh and Another** reported in **2021 (5) KHC 353** considered the point in detail. The relevant paragraph of the above judgment is extracted hereunder.

"12. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. (Joginder Kumar v. State of UP and Others (1994 KHC 189: (1994) 4 SCC 260: 1994 (1) KLT 9191: 1994 (2) KLJ 97: AIR 1994 SC 1349: 1994 CriLJ 1981)) If arrest is made routine, it can cause incalculable harm to the

reputation and selfesteem of a person. If the investigating officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused”.

9. In **Satender Kumar Antil v. Central Bureau of Investigation and Another** reported in **2022 (4) KHC 570** it was held that “*The principle that bail is the rule and jail is the exception has been well recognised through the repetitive pronouncements of this Court. This again is on the touchstone of Art.21 of the Constitution of India*”.

10. Having regard to the facts and circumstances of the case, as well as the materials available on record, this Court is of the view that the petitioner/Accused is entitled to be released on bail, subject to appropriate conditions.

In the result, the application is allowed subject to following conditions.

1.	The petitioner/Accused shall be released on bail on executing a bond for Rs.1,00,000/- (Rupees One Lakh only) with two solvent sureties for the like sum to the satisfaction of the Jurisdictional Magistrate Court.
2.	The petitioner/Accused shall appear before the Investigating Officer on every Saturdays between 06.00 P.M and 07:00 P.M for a period of 4 months from the date of this order.
3.	The petitioner/Accused shall appear before the Investigating Officer for the purpose of interrogation as and when required by him.
4.	The petitioner/Accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the court or to any police officer.

5.	The petitioner/Accused shall not leave India without the permission of the jurisdictional court.
6.	The petitioner/Accused shall not commit any offence while he is on bail.
7.	It is needless to mention, it would be well within the powers of the investigating officer to investigate the matter and, if necessary, to effect the recoveries on the information, if any, given by the petitioner even while the petitioner/Accused is on bail as laid down by our Hon'ble Supreme Court in Sushila Aggarwal v. State (NCT of Delhi) and Another reported in 2022 (1) KHC 663 .
8.	If any of the above conditions are violated by the petitioner/Accused, the jurisdictional court can cancel the bail in accordance with law, even though the bail is granted by this court. The prosecution and the victim are at liberty to approach the jurisdictional court to cancel the bail, if any of the above conditions are violated by the petitioner/Accused.

(Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in open court, on the 08th day of May, 2026).

sd/-

Sessions Judge (I/c)

Copy to:-

//True copy//

1. The JFCM - II, Kozhikode
2. The Superintendent of the Jail concerned.
3. The SHO Chemmangadu Police Station
4. The Public Prosecutor.

Sr. Superintendent

Fair / Copy of Order
in **BA No. 646/2026**
Dated : 08.05.2026