

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-II,
CHERTHALA**

Present: Smt. Sincy Jacob, Judicial First Class Magistrate-II.

Dated this the 09th day of June, 2026

C.M.P No. 4 of 2026 in CC 1035 of 2025

Petitioner/ Accused	:	Kerri Jayne Budd, Age- 35 yrs., D/o Paul Budd, 4 Second Avenue, Glenelg East, South Australia. (BY Adv. Sri. P Rajesh)
Counter Petitioner	:	The State represented by the Sub Inspector of Police, Arthunkal Police Station, Cr.734/2025 (By APP, Cherthala II)
Offence	:	U/s 23(b) the Immigration and Foreigners Act, 2025
Order	:	Application dismissed

This case coming on to this day's proceedings, this court passed the following:-

ORDER

1. This is petition seeking shifting of the petitioner to mahilamandiram
2. The petition averments in brief are as follows:-The petitioner filed this petition seeking accommodation of the petitioner to mahila mandiram. According to the petitioner, she is alleged to have violated the immigration laws and is alleged to have committed offences under Section 23(b) of Immigration and Foreigners Act. According to the petitioner, she was granted bail by Hon'ble High Court of Kerala in Bail Appeal No. 1314/2026 and which is allowed on 06.04.2026. In the second condition of the bail order, it is stated that "the respondent no. 2 shall pass appropriate order in accordance with law after hearing the applicant or her

counsel within a period of 1 month. The applicant shall be released only subject to the orders passed by respondent no. 2." As per this order, the second respondent ordered to release the petitioner and permitted her to reside in Puliyaankottu House, Cherthala South Panchayath Ward 15, Kurupankulangara PO, with limited freedom of movement. But the second respondent pronounced the order without the knowledge and permission of the owner of the said house and thus the order became futile. After the inquiry by the second respondent, an alternative place has been intimated by SHO Arthungal, which is Mahila Mandiram Alapuzha. The prevailing law does not allow a foreigner any other accommodation in India. Thus, it is humbly prayed that this Hon'ble Court may graciously permit to shift the petitioner to mahalamantaram alapuzha in the interest of justice and welfare of the petitioner and who is a pregnant lady. The copy has been served the learned APP.

3. Respondent contended as follows:-The respondent also submits that the petitioner is presently in judicial custody since 12.11.2025 and she was given bail upon a condition imposed by Hon'ble High Court of Kerala in Bail Application 13.14.2026. As the respondent no. 2 shall pass appropriate orders in accordance with law after hearing the application of Applicant or her counsel within a. Of 1 month. The applicant shall be released only subject to the orders passed by the respondent no. 2. Hence the accused was ordered to be released to Puliyaangottu House, Cherthala South Panchayath Ward 15, Kurupangulangara PO. However the owner of the said house was not asked about his consent and thus The said order became futile and FRO has given direction to District Police Chief to find out an alternate way. Place for accommodation of the accused and to

inform the FRO. Hence it is further submitted that in Kerala there is no transit home functioning for the purpose of accommodating foreign ladies and only transit home available is for the accommodation of Foreign men. It is further submitted that In Frank Titus v. NCB, in Criminal Appeal 01.05.2024, Hon'ble Supreme Court clearly states that in case of bail to the foreigner, the movement of foreigner has to be restricted. It is further submitted that In Frank Vitus v. NCB, AIR 2025 SC 546, Hon'ble Supreme Court clearly states that in case of bail to the foreigner, the movement of foreigner has to be restricted. It is further submitted that the owner of the house one Mr. Manmadhan is now in judicial custody in crime no.157/26 for stabbing his son Ramesh, who is the partner of the accused. It is further submitted that said Ramesh has taken a house on rent and the rental agreement has been produced before SHO Arthungal. However the SHO Arthungal prays for inducting the foreigner accused into mahila mandalam Alappuzha considering the Safety of accused/petitioner.

4. FRRO was also given notice with respect to the same and it is submitted that Sri Manmathan P. K ., the owner of the premises wherein F. R. O. was given direction to Accommodate the Foreign National has expressed his opposition to accommodate the Foreign National and subsequently the Office forwarded the said petition to District Police Chief, Alapuzha to identify an alternative place at the earliest so that the restriction order may be revised accordingly. However it is submitted that FFRO has no objection in considering the application and to accommodate the accused in Mahila mandiram as there is no transit home is available.

5. Heard the learned counsel for both sides.

6. The only point arose for consideration is

1) whether the petitioner is entitled for the relief sought for ?

7. On the perusal of Order in BA 1314/2026, Hon'ble High Court of Kerala has clearly stated that "the respondent no. 2 shall pass appropriate orders in accordance with law after hearing the applicant or her counsel within a period of 1 month. The applicant shall be released only subject to the orders passed by respondent no. 2." It is clearly stated in the said order that "therefore once a foreigner is released on bail, he or she cannot leave India without the permission of the Civil Authority as provided in clause 5 of the order(Foreigners order 1948). Under clause 11 of the order, the Civil Authority can impose restrictions on the movement of the foreigner. The said power is wholly independent of the power to grant bail." Hence, Hon'ble High Court of Kerala, vide in its order itself, clearly stated that the power of civil authority to impose restrictions on the movement of the foreigner is independent of the power to grant bail. Hence, this Court is of the view that as per the order of Hon'ble High Court of Kerala, the applicant shall be released only subject to the orders passed by respondent no. 2, which is FRRO. Hence this court is of the view that it is not proper to not interfere into the power of FRRO in the light of the aforesaid decision of Hon'ble High Court of Kerala. The District Police Chief Is directed to find an accommodation as required by FRRO and to intimate the same without delay to the FRRO. Further in the report filed by SHO Arthungal Police Station it is stated that the partner of the petitioner herein has rented out a house and intending to accommodate her there. The aforesaid aspect may also be reported to FRRO for their necessary action. Further, this Court is of the view that FRRO is the appropriate

authority concerned to take decisions with respect to the movement restrictions of the foreigner in this case .The FRRO after considering the order of Hon'ble High Court in BA 1314/2026 may pass appropriate orders without delay in this regard considering the fact that the accused/ petitioner is a pregnant lady. Point No. 1 is found accordingly. Hence, in the light of aforesaid discussions, this Court is of the view that the petition is not liable to be considered by this Court.

12. Ex consequenti, this application is dismissed.

Dictated to the confidential assistant, transcribed and typed by her, corrected and pronounced by me, in open court on this the 09th day of June, 2026.

Sd/-

Sincy Jacob

JUDICIAL FIRST CLASS MAGISTRATE-II,
Cherthala

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JUDICIAL FIRST CLASS MAGISTRATE-II,
Cherthala