

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE-II, N. PARAVUR

Present:- Smt. Jyothi V., Additional Sessions Judge-II
Tuesday, the 28th day of April, 2026/8th Vaishakha, 1948

Crl. MP Nos.4/2026 and 6/2026

in

SC No. 1672 of 2025

(Crime No.231/2025 of Aluva Police Station)

Crl. MP No.4/2026

Petitioner/5th Accused:-

Ashique, aged 25 years, S/o. Ummer, Mullanmadakkal House,
Chirayil, Kondotty, Malappuram, Kerala, Pin-673638.

By Adv. Sri. Francis Assisi

Respondent/Complainant:-

State of Kerala represented by the Inspector of Police,
Aluva Police Station.

By Addl. Public Prosecutor N. Paravur, Smt. Rakhee S.

Crl. MP No.6/2026

Petitioner/4th Accused:-

Ayesha Gaffar Sayed, aged 39 years, W/o. Munaf,
Flat No. 303, Antariksh Socity, NR Green Field, Pimpri,
Pimpri Police Station, Pune City, Maharashtra, India.

By Advs. Sri. B. S. Sureshkumar & Smt. Ashley John

Respondent/Complainant:-

State of Kerala represented by the Inspector of Police,
Aluva Police Station.

By Addl. Public Prosecutor N. Paravur, Smt. Rakhee S.

These petitions are filed by the petitioners/accused Nos. 5 & 4 seeking discharge from the offences alleged under Sections 8(c), 22(c), 20(b)(ii)A and 29 of NDPS Act., having been heard on 16.04.2026 and the court on 28.04.2026 passed the following:-

ORDER

These are the petitions filed by the respective petitioner/ accused Nos.4 and 5 under Section 250 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking discharge from the offences alleged under Sections 8(c), 22(c), 20(b) (ii)A and 29 of NDPS Act.

2. The prosecution's case, in brief, is that the accused 1 to 5, with the intention and preparation to sell the prohibited narcotic drugs MDMA and ganja for unlawful gain, was found in possession of accused No 1, three transparent packets containing MDMA, one packet containing 5.320 grams, another containing 8 grams, and a third containing 6.720 grams, totaling 20.040 grams of MDMA, as well as a plastic cover containing 13.5 grams of ganja. These were kept on a table in the bedroom located at the south-eastern corner of a two-storied house owned by Karippayi Abdul Rasheed, situated on the southern side of Koothanali Road, in the Manthrakkal area of Thaikkattukara kara, within Choornikkara Village, where the accused had been residing on rent. This fact was noticed by the accused on 31.01.2025 at about 4:20 p.m. Thus the accused alleged to have committed the above offences.

3. The learned counsel for the petitioner in Crl. MP No.4 contended that petitioner is the accused No.5 in crime No. 231/2025 in the files of Aluva Police Station. The petitioner was formally arrested on 07.04.2025. There is nothing on record to show that there are sufficient grounds for proceeding against the petitioner. No evidence has been brought forth by the prosecution to show any nexus between the petitioner and the other accused. No call data

records or bank transactions have been produced with the final report. The contraband was allegedly seized from the other accused. The petitioner was in no way connected to the other accused. There is no prima facie material to frame a charge against the petitioner. In the present case, apart from the inadmissible confessional statement of a co-accused under Section 67 of the NDPS Act, there is no independent evidence linking the petitioner to the offence. Therefore, continuing the prosecution would violate the petitioner's right to liberty under Article 21, and he is entitled to be discharged.

4. The learned counsel for the petitioner in Crl. MP No.6 contended that The petitioner, arrayed as accused No.4, is alleged to have assisted accused No.3 in collecting and handing over contraband to accused No.1; however, this allegation is wholly unsupported by any credible evidence. She was already in police custody in another case at the time of the alleged incident, making her involvement factually impossible. She is a permanent resident of Mumbai with no connection to Kerala or the other accused, who are complete strangers to her. There are no call records, messages, financial links, or proof of any meeting connecting her to the offence. The prosecution relies only on unverified chat data, alleged money transfers, and the statement of a co-accused, without any independent corroboration. Her mere presence in the same hotel as another accused, without evidence of interaction, is also insufficient to establish any link. The selective implication of the petitioner, while ignoring others

with similar transactions, further highlights the arbitrary nature of the prosecution case.

5. The learned Public Prosecutor opposed the CrI.MP No.4 contending that since the accused is a member of an inter-state drug trafficking network, there is a strong likelihood that if released on bail, the accused may abscond and thereby obstruct the trial proceedings. There is also a real possibility of the accused threatening or influencing witnesses and continuing involvement in criminal activities. Granting bail in such circumstances would send a wrong message to society, particularly to the youth, and may encourage similar offences. Further, there is a likelihood that the accused may associate with other offenders and continue the trafficking and sale of prohibited narcotic substances such as methamphetamine and ganja for financial gain. Considering that the investigation has been completed and the charge sheet has already been filed before the Hon'ble Court on 18.08.2025, and trial is to commence without delay, releasing the accused on bail may result in absconding and disruption of the trial proceedings.

6. The learned Public Prosecutor opposed the CrI.MP No.6 contending that the the petitioner, who is the 4th accused in Crime No. 231/25 under Sections 8(c), 22(b), 20(b)(ii)A, and 29 of the NDPS Act, was remanded and lodged in Women's Jail, Kakkanad, and has since been released on conditional bail granted in CrI.M.C. No. 971/2025. The FIS was registered suo motu. The prosecution opposes the application on the ground that multiple cash

transactions have been found between the petitioner and the co-accused, and that they have previously been involved together in similar cases. The investigation further indicates a clear and direct nexus between the petitioner and the alleged offence. Hence, it is prayed that the application be dismissed and the case be proceeded with in accordance with law.

7. I have carefully considered the rival submissions made by the learned counsel for the petitioners and the learned Public Prosecutor, and have also perused the final report and the materials placed on record.

8. At the stage of considering a petition for discharge, the Court is not expected to conduct a meticulous appreciation of evidence or determine the probative value of materials. The **Hon'ble Supreme Court in Union of India v. Prafulla Kumar Samal and Anr. (1979) 3 SCC 4**, held that at the stage of framing of charge, the Judge has the power to shift the evidence to some extent to see whether there is sufficient ground for proceeding, but should not conduct a roving enquiry into the materials as if conducting a trial.

9. Further, in **State of Karnataka v. L. Muniswamy & Others (1977) 2 SCC 699**, the **Supreme Court** emphasized that if the materials produced fail to disclose the essential ingredients of the alleged offences, the Court is duty-bound to discharge the accused to prevent abuse of process and unnecessary harassment. The Court is only required to ascertain whether there exists sufficient ground for proceeding against the accused and whether a prima facie case is made out based on the materials produced by the prosecution.

10. In the present case, the prosecution allegation is that the accused Nos.1 to 5 were involved in possession and intended sale of contraband substances, namely MDMA and ganja, which were allegedly recovered from the possession of accused No.1 from a rented house. In so far as the petitioner/accused No.5 is concerned, it is evident from the records that no contraband was seized from his possession. The prosecution has not produced any material such as call data records, financial transactions, or other independent evidence to establish any nexus between the petitioner and the alleged offence. The implication of the petitioner appears to be primarily based on the alleged statement of a co-accused. It is well settled that a confessional statement of a co-accused, in the absence of corroboration, cannot be the sole basis to proceed against another accused.

11. Similarly, with respect to the petitioner/accused No.4, the allegation that she assisted another accused in handling contraband is not supported by any reliable or independent material. The contention that she was in custody in another case at the relevant time raises a serious doubt regarding her involvement, which the prosecution has not effectively rebutted at this stage. Apart from alleged chats, financial transactions, and statements of co-accused, no substantive material has been produced to establish her active participation in the alleged offence.

12. Though the learned Public Prosecutor would contend that there are financial transactions and other materials indicating nexus between the

petitioners and the co-accused, on a careful evaluation of the records, this Court finds that such contention is not substantiated by any reliable or legally admissible material. The alleged financial transactions are not shown to have any direct connection with the contraband or the alleged transaction, nor has the prosecution produced any supporting material such as call detail records, authenticated electronic evidence, or independent witness testimony to establish such nexus. On the other hand, the materials disclose that similar transactions with other persons have not been subjected to scrutiny, thereby rendering the prosecution case selective and lacking in consistency.

13. Admittedly, no contraband was recovered from the possession or control of the petitioners. There is also no material to indicate conscious possession, prior association, or any overt act on their part in furtherance of the alleged offence. The implication of the petitioners appears to rest primarily on the statement of a co-accused and certain uncorroborated electronic data, which, in the absence of independent corroboration, cannot form the basis for proceeding against them.

14. It is trite that at the stage of framing charge, the Court must be satisfied that the materials disclose at least a grave suspicion against the accused. However, the materials in the present case, even if taken at their face value, do not rise above the level of mere suspicion. Suspicion, however strong, cannot take the place of a prima facie case.

15. Insofar as the offence under Section 29 of the NDPS Act is concerned, there must be some material to indicate a meeting of minds or concerted action between the accused persons. The records in the present case

do not disclose any such circumstance. There is no evidence of communication, agreement, or coordinated conduct linking the petitioners with the alleged offence. The circumstances relied upon by the prosecution are vague, inconclusive, and incapable of giving rise to an inference of conspiracy. In such circumstances, this Court is of the view that the materials on record do not disclose sufficient grounds for proceeding against the petitioners. Permitting the prosecution to continue in the absence of a prima facie case would only result in unnecessary harassment and would amount to an abuse of the process of Court.

In the result, CrI.M.P. Nos. 4 and 6 are allowed.

- The petitioners/accused Nos. 4 and 5 are hereby discharged under Section 250 of the Bharatiya Nagarik Suraksha Sanhita, 2023, from all the offences alleged against them under Sections 8(c), 22(c), 20(b)(ii)A and 29 of the NDPS Act in Crime No. 231/2025 of Aluva Police Station.
- The bail bonds, if any, executed by the petitioners shall stand cancelled.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, on this the 28th day of April 2026.

Sd/-
Jyothi V.,
Additional Sessions Judge-II

Appendix:- Nil

Sd/-
Additional Sessions Judge-II

Typed by : Jini N.S.
Com.by: Vivek A.N.