

IN THE COURT OF SESSIONS, KASARAGOD DIVISION

Present : Smt.Priya.K, Additional Sessions Judge-II, Kasaragod

Monday, the 05th day of May, 2025

CRIMINAL M.P No.2302 OF 2025 in SC No.518/2021
in Crime No.624 OF 2021 of Vidyanagar Police Station

Between:-

SHO Vidyanagar Police Station
 Represented by Additional Public
 Prosecutor -II, Kasaragod

} Petitioner/Complainant

And

Abdul Rahiman @Andrai,
 aged 37/2024,
 S/o.Kunhutty,
 Chettumkuzhi House,
 Hidayath Nagar, Madhur Village,
 Kasaragod District.

} Respondent/Accused

Petition filed U/s.483 (3) of Bhartiya Nagarik Suraksha Sanhita, 2023 for cancellation of bail of accused in S.C. 518/2021.

This petition presented on :11.04.2025

This petition coming on this day for hearing before me in the presence of Sri.Chandramohan.G, Additional Public Prosecutor for the Petitioner (State); of Sri.Vinod Kumar.P (Deputy Chief Legal Aid Defense Counsel) Advocate for the Accused/Respondent; the Court passed the following:

ORDER

Petition is filed by the Inspector/S.H.O of Vidyanagar Police Station through Additional Public Prosecutor, for cancellation of bail of accused in SC.518/2021, U/s.483 (3) of Bharatiya Nagarik Suraksha Sanhita, 2023.

2. **Brief facts of the petition, is that:-** Respondent in this petition is the accused in the above case. The prosecution allegation is that, on 15.09.2021 at 18.45 hours at Chettumkuzhi in Madhur Village, the respondent was found in conscious possession of 2.31 Grams of MDMA and 34.15 Grams of Charas, for the purpose of sale. Respondent was arrested and the contraband was seized. Respondent was released on bail in this case. As per the condition No.5 of the bail Order in CrI.M.P.No.2807/2021, the respondent shall not commit any offence while on bail. Later, respondent was involved in Crime No.896/2024 of Kasaragod Police Station. The copies of FIR and seizure mahazar and the bail Order are produced before the court. The petitioner prayed for cancelling the bail granted to the respondent.

3. Counter was filed by the respondent contending that the respondent is co-operating with the trial and hadn't misused the liberty granted to him in this case. The respondent was deliberately framed in a false case with an intention to cancel the bail already granted to him in the above case. The Hon'ble High Court of Kerala in the decision reported in **Godson and Another v.State of Kerala [2022 KHC OnLine 672]** held that, 'Mere involvement in another crime is not a ground to cancel bail'. The bail shall not be cancelled in a mechanical manner, without considering whether any

supervening circumstances exists. If the petition is allowed, it will cause irreparable hardship to the respondent. Therefore, the respondent prayed for dismissal of the application.

4. Heard both side.

5. **The following point is raised for determination;**

Whether the bail granted to the accused is liable to be cancelled, as prayed for?

6. **The Point** :- Learned Additional Public Prosecutor submitted that the accused was released on bail on condition that he shall not commit any other offence while on bail. Now he is involved in Crime No.896/2024 of Kasaragod Police Station, punishable U/s.22(c) of the Narcotic Drugs and Psychotropic Substances Act so that, his bail may be cancelled.

7. Learned Counsel for the respondent submitted that, on going through the prosecution materials, it can be seen that, so far as the involvement of the accused in subsequent offence is concerned, there is no prima facie materials in the said crime. According to Learned Counsel for the respondent, the mere fact that the accused is subsequently involved in a similar offence is not a ground to cancel the bail.

8. On hearing both side and on perusal of case records it is found that, the copy of First Information Report and seizure mahazar in Crime No.896/2024 of Kasaragod Police Station registered against the respondent are produced by the prosecution before the court.

9. In Crime No.896/2024 of Kasaragod Police Station, the allegation against the respondent is that, on 02.11.2024 at 21 hours, at Parakkatta, Kudlu Village, the accused Nos.1 and 2 were found in conscious possession and transportation of 24.15 Grams of MDMA, for the purpose of sale.

10. An enquiry was conducted by this court regarding the prima facie materials for the satisfaction of the court to cancel bail.

11. Here a question arouses, whether the involvement of accused in the subsequent similar offence is a ground for cancelling the bail. The cancellation of bail is something affecting the personal liberty of a person so that, the court is bound to undertake a summary enquiry and to take a decision regarding the cancellation of bail.

12. In **Jamsheer Ali v.State of Kerala (2025 KHC OnLine 332)** the Hon'ble High Court of Kerala held that, *"As rightly pointed out by Learned Counsel for the petitioner, the order of the Special Court, relevant part has*

been extracted above, does not contain even a subjective satisfaction that the petitioner has prima facie committed the second offence. Registration of the second crime ipso facto need not result in cancellation of the bail. Of course, the condition is that the petitioner should not involve in any other crime while on bail. Even so, cancellation of bail being something affecting the personal liberty of a person, the court should have undertaken a summary enquiry as held by the Apex Court in Dataram. The Special Court should have called for the materials concerning Crime No.51 of 2023 and after considering such materials alone a finding should have been rendered. As stated, the Special Court ought to have taken a decision on the plea for cancellation of the bail after considering the available materials concerning Crime No.51 of 2023 of the Excise Range, Kalpetta. Since no such exercise was undertaken by the Special Court, there is no other option than setting aside Annexure -VIII order and directing the Special Court to consider the matter afresh”.

13. In **Kailash Kumar v.State of Himachal Pradesh (2025 KHC OnLine 7157)** Hon’ble Supreme Court of India held that, “ *In terms of such decision, while seized of an application for cancellation/revocation of bail, the considerations (illustrative, not exhaustive) which ought to weigh with the courts are whether: (i) the accused has misused the concession of liberty; (ii)*

he has been delaying the trial; (iii) he has been influencing/threatening the witnesses; (iv) he has been tampering evidence in any manner; and (v) there has been any supervening circumstance after grant of bail warranting a relook. The decision also lays down that orders granting bail could be interfered with if the same are found to be perverse or illegal in the sense that the Court's conscience is shocked or extraneous material has been considered."

14. The only documents produced before the court for cancellation of bail is, copies of First Information Report and seizure mahazar of subsequent registered crime. The court cannot jump into a conclusion that bail shall be cancelled only upon the fact that subsequent First Information Report was registered against the accused. Only after a full fledged trial and after examination of witnesses such a conclusion can be drawn before violating the personal liberty of the accused person envisaged under the constitution. Only on perusal of First Information Report and seizure mahazar, the court cannot jump into a conclusion that the accused had committed subsequent similar offence, without the completion of trial.

15. In such circumstances, it can only be concluded that the petitioner is not entitled get an order for cancellation of bail of accused in this case, as prayed for. Hence, the point is found against the petitioner.

In the result, CrI.M.P No.2302/2025 is dismissed.

(Dictated to the Confidential Assistant, typed by her directly, corrected and pronounced by me in open court, on this the 05th day of May, 2025)

NPV/-

Sd/-
**ADDITIONAL SESSIONS JUDGE-II,
KASARAGOD.**

//True Copy//

SHERISTADAR

Typed by : Jyothi.P
Compared by: Jamshad

Copy of order in
Crl.M.P.No.2302/2025
in SC.518/2021
in Crime No.624/2021 of
Vidyanagar Police Station
Dated: 05.05.2025