

IN THE COURT OF SESSIONS, PALAKKAD DIVISION
Present : Shri. D.Sudheer David, Additional Sessions Judge-II

Saturday, the 7th day of March, 2026
23rd day of Phalguna, 1947 S.E

CRIMINAL MISCELLANEOUS PETITION No.04/2026
IN SESSIONS CASE No.12/2025
In Crime No.705/2024 of Mannarkkad Police Station

Petitioner/Accused No.5:

Safiya, aged 39/2024, D/o Sayyed Abubacker, Puravargha, Badkal Taluk, Utharakannada District, Karnataka, presently residing at Ikshmindra Ngara, Manipal Road, Uduppi, Karnataka.

Vs.

Respondents/Complainants:

State of Kerala, Rep. by the Deputy Police Superintendent, Mannarkkad Sub Division.

This petition is filed by the petitioner/accused no.5 in Crime No.705/2024 of Mannarkkad Police Station praying that in the circumstances stated therein, this court may be pleased to grant bail to the petitioner.

This application coming on for hearing today in the presence of Advocate Shri.Renjith Krishna.V., Cheif Legal Aid Defence Counsel, Palakkad for the petitioner/accused no.5 and the Public Prosecutor on behalf of the state and this court passed the following:-

ORDER

This is an application under section 483(1)(a) of BNSS and 37 of NDPS Act, filed by the accused.

2. Accused is facing indictment of the offence punishable under sections 20(b)(ii) C and 29 of NDPS Act.

3. The case of the prosecution is that, petitioner, who is the fifth accused, along with the first and the fourth accused brought 40.918 kilograms of ganja bought from the sixth accused from Bangalore in furtherance of the conspiracy they hatched with second and third accused, who financed for the purchase of it with the assurance of the former to sell it off, and the store in the rented residence of the sister of the first accused.

4. Petitioner was arrested on 12.8.2025 and undergoing judicial custody since then.

5. Petitioner would contend that she is innocent and she has not possessed or transported ganja as alleged and that she is ready to abide by whatever conditions that may impose for the purpose of bailing her out. Actually, she was arrested on the suspicion of the officer concerned that arose out of the fact that she travelled in train in which accused was also travelling. The mandatory arrest conditions were not followed in connection with her arrest. Actually, her arrest was done in violation of the two hours rule.

6. Deputy superintendent of Police filed report opposing the bail application, asserting that the petitioner has possessed the contraband, along with the other accused and that she was accused of another NDPS case registered at Kundapura rural police station and was undergoing judicial custody in at Mangalapuram Jail. Since she is getting frequently involved in NDPS cases, it would not be congenial to enlarge her on bail, especially when she is in native of the State

of Karnataka, that makes it impossible to trace her out if she abscond misusing the bail being granted to her.

7. For the purpose of this petition the following points are raised for consideration.

1. Whether the petitioner is entitled to be release on bail?
2. Order?

8. **Point No.1:-** The case of the prosecution against the petitioner is that she, the fifth accused, along with the first and the fourth accused brought 40.918 kilograms of ganja bought from the sixth accused from Bangalore in furtherance of the conspiracy they hatched with second and third accused, who financed for the purchase of it with the assurance of the former to sell it of, and the store in the rented residence of the sister of the first accused.

9. The quantity of the contraband is admittedly commercial quantity, that makes the rigor of section 37 of the NDPS Act to come into play, where she had to bring out that there is no reasonable grounds to find that she is not guilty of the offence and that she would not repeat the very offence, while on bail.

10. Honourable High Court in **State of Kerala v. Sreebabu (2023 (4) KHC 405)** enumerated the conditions for granting bail in a case involving commercial quantity of Narcotic drug. They are (1) prosecution must be given opportunity to oppose the bail application (2) court must be satisfied that there is reasonable ground for believing that he is not guilty of that offence (3) court must be

satisfied that he is not likely to commit any offence while on bail. It is further held that in case the quantity of the contraband involved is 'commercial quantity' court could not have and should not have passed an order under Section 439 of the Code of Criminal Procedure without reference to Section 37 of the NDPS Act and without entering a finding on the required level of satisfaction in case the court was otherwise inclined to grant the bail. Earlier in **Surat v. State of Kerala (2023 KHC 413)** Honourable High Court held that the conditions in Section 37 of NDPS Act must be read conjunctively and not distinctively.

11. Here the petitioner got involved in the position of 40.918 kilograms of ganja that was brought from Bangalore in furtherance of the conspiracy, she and the other accused in this case hatched. It cannot prima facie be found as a false implication. It is impossible to find total lack of materials to establish a substantially probable case against the petitioner, in order to rule out the first condition that she is not guilty of that offence. With respect to the second condition that there is no likelihood of her committing the very same offence while on bail, the verify that she got involved in other similar offence dispose that condition. So it is not legally possible to grant her bail, in spite of the fact that final report in this case is already submitted by the investigating officer. It will not outweigh the gravity of the offence she is stated to have done. Point is answered against the petitioner.

12. **Point No. 2:-** In the result the petition is dismissed.

Dictated to Google dogs voice typing app, typed by it, corrected by me and pronounced in open court on this the 7th day of March 2026.

Sd/-
Additional Sessions Judge-II

**Fair/Copy of Order in
Crl.MP No. 04/2026 in
SC No. 12/2025
Dated: 07.03.2026.**