

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

Thursday, the 19th day of February, 2026
30th day of Magha, 1947 S.E

CRIMINAL MISCELLANEOUS PETITION No.02/2026
IN SESSIONS CASE No.1158/2024
In Crime No.592/2023 of Kasaba Police Station

Petitioner/Accused No.3 :

Nissam, aged 38/2024 , S/o Ismail, Chalil House, Souhridaya Nagar,
Ganeshamangalam, Vadanapalli, Thrissur.

Vs.

Respondents/Complainants:

State of Kerala, Rep. by the Inspector of Police, Kasaba Police Station.

This petition is filed u/s.483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) by the petitioner/accused no.3 in Crime No. 592/2023 of Kasaba Police Station praying that in the circumstances stated therein, this court may be pleased to release him on bail.

This application coming on for hearing today in the presence of Advocate Shri.Sreenath.S. for the petitioner/accused no.3 and the Public Prosecutor on behalf of the state and this court passed the following:-

ORDER

This is an application under section 483 of BNSS filed by the 3rd accused.

2. Accused is facing indictment of the offence punishable under sections 22(c) , 25 and 29 of NDPS Act.

3. The case of the prosecution is that, the petitioner, who is third accused directly got involved in first and second accused possessing 62. 3611 grams of methamphetamine, with which the latter two were caught red-handed on evening of 1.7.2023 at 4.20 PM who were found, transporting it in a jeep bearing number KL 70 5B 6895 from Walayar to Palakkad. It is stated that the detecting police official stopped their jeep on getting information about the objection will be in which they were travelling through the highway and on the search made in the jeep the

contraband was searched out in three covers of 37.0490 grams, 25.3121 grams and 3 grams respectively. Thereafter, on the investigation, it is found that it was the third accused who acted the pivotal role and brought the contraband from Bangalore to Kerala for which he along with the first and second accused stayed in a hotel at Bangalore by name GS suites and conspired for committing the said crime, and he entrusted the others with the contraband and concealed it in the jeep in which they travelled and caught red handed.

4. The petitioner was formally arrested from Parappana Agrahara Jail, where he was undergoing judicial custody in connection with another case on 25.6.2024 at 17:15 PM for the purpose of this case. Since then, he is in custody. The stage of the case is that final report was filed and is pending consideration for further proceedings.

5. Accused contended that he is innocent and he has no connection whatsoever with first and second accused possessing the contraband. He is falsely implicated in this case, based on the confession statement of the first and second accused.

6. Inspector of Police Kasaba Police Station filed report, vehemently opposing the bail application. The report affirms the active involvement of the accused persons possessing 62.3611 grams of methamphetamine in furtherance of the conspiracy he hatched with the first and second accused. It is alleged that the first accused stayed in Hotel GS suits from 11.6.2023 to 1.7.2023 and the petitioner came over there and stayed in another room on 9.6.2023, in which the second

accused stayed as an extra person and thereafter on 29.5.2023 he along with the first accused stayed in an apartment at Ernakulam, by D Royal Sauparnika, where the second accused was a regular visitor, for the purpose of conspiring to commit the aforesaid offensive act.

7. The learned Special Public Prosecutor vehemently opposed the bail application, reiterating the reasons stated in the report of the Inspector of police.

8. 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?

9. **Point No.1:-** in the outset it is to be noted that, this is a second application for bail find the petitioner after getting his earlier application dismissed on 11.4.2025. No change in circumstances is put forth to consider the second application, which is deprecated by the Honourable High Court in **Suni N.S v State of Kerala (2024 (4) KHC 112)**. It is to affect the merit of this application.

10. As far as the grand of bail in an NDPS case involving commercial quantity Honourable High Court in **State of Kerala v. Sreebabu (2023 (4) KHC)** set forth the conditions for granting bail. 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 in this case the offence alleged against the accused is his direct connection in the matter of first and second accused possessing 62. 3611 grams of methamphetamine on the evening of 1.7.2023, by transporting it in a jeep from Walayar to Palakkad as he conspired with them staying at Bangalore and also Ernakulam and entrusting it with the first and second accused to transport it in the jeep. These facts are revealed in the investigation, making it to understand that it was not the confession statement of the first and second accused, that is the all material against the petitioner connecting with this case. The information received from the first and second accused with respect to the environment of the petitioner in the crime is seem to be confirmed in the investigation, making it to find his direct presence in the matter of the second accused bringing the commercial quantity of contraband to Kerala from Bangalore.

12. In this regard, it is a fact that, petitioner was undergoing judicial custody in connection at Bangalore jail connection with the crime registered against him by Bangalore police, from where he was formally arrested for the purpose of this case, proving his criminal antecedents.

13. Needless to say, this very imputation against the petitioner is grave in nature, making it to have a complete satisfaction of the rigorous conditions of Section 37 of the NDPS Act, as held in the above stated authorities. There is no reasonable ground to believe that he is not guilty of the offence imputed on him and that he will not commit any offence while on bail. So, it is not legally possible to grant him 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 they are state to have done, there is no chance of the rent to disallow bail to him. Point is answered against the petitioner.

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

Dictated to google docs voice typing app, typed by it, corrected by me and pronounced in open court on this the 19th day of February 2026.

Sd/-
Additional Sessions Judge-II

**Fair/Copy of Order in
Crl.MP No. 2/2026 in
SC No. 1158/2024
Dated: 19.02.2026**