

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

Wednesday, the 10th day of June, 2026
20th day of Jyaishta, 1948 S.E

CRIMINAL MISCELLANEOUS PETITION No.02/2026
IN SESSIONS CASE No. 363/2026
In Crime No.113/2025 of Excise Range Office, Palakkad

Petitioner/Accused:

Shameer.P.S., aged 32 years, S/o Shahu.P.V., Puthuveedu veetil, Puthankadappuram Desom, Manathala Village, Chavakkad Taluk, Thrissur District – 680 516.

Vs.

Respondent/Complainant:

State of Kerala, Rep. by the Assistant Excise Commissioner, Palakkad.

This petition is filed u/s.483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) by the petitioner/accused in Crime No.113/2025 of Excise Range Office, Palakkad 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.Favas Farhan.N.H., for the petitioner/accused and the Special Public Prosecutor on behalf of the state and this court passed the following:-

ORDER

This is an application under section 483 of BNSS of NDPS Act, filed by the accused.

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

3. The case of the prosecution is that, the petitioner, the first accused in this case, was found possessing 211.4 grams of methamphetamine while travelling in a KSRTC bus from Coimbatore to Palakkad on the morning of 29.9.2025 at 7:50 AM,

and caught red handed by the detecting officer, who conducted checking of that bus at Walayar check Post.

4. Petitioner was arrested on the date of detection itself and he is undergoing judicial custody since then. 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. The mandatory procedural formalities under the NDPS Act were not followed in this case, which is to affect the very maintainability of it. Investigation is over, and complaint is filed. Hence, his judicial custody is no longer required. He is the sole bread winner of his family. He is ready to abide by any conditions that may impose upon him.

6. Assistant Commissioner of Excise, Enforcement Palakkad filed report through the Additional Public Prosecutor, vehemently opposing the bail application. The report affirms the involvement of the petitioner in possessing 211.4 grams of methamphetamine and put forth the concerned that, in case of his released on bail there is every chance of his repeating the very same offence and to go absconding, completely thwarting the trial of the case. It also has stated that there is every chance of his tampering with evidence and influencing the witnesses. So, it is urged not to grant him bail.

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 imputation against the accused is the possession of 211.4 grams of methamphetamine while travelling in a KSRTC bus from Coimbatore to Palakkad on the morning of 29.9.2025 at 7:50 AM. It is a commercial quantity. In outset it is to be noted that, this is the second application for bail on the part of the petitioner. His earlier application was dismissed by this court. (Crl MP 5402/2025. Honourable High Court has rule against the filing of successive bail applications, one after another, after suffering dismissal of the earlier one, except in cases, where there is change in circumstances, in dictum laid down in **Sunil N.S v. State of Kerala (2024 (4) KHC 112)**.

9. So also, there are authorities to the effect that, long period of incarceration is no ground for granting bail if commercial quantity of contraband is involved. Three judge bench of the Honourable Supreme Court ruled the same in **Narcotic Control Bureau versus Mohit Agarwal (AIR 2022 SC 3444)**. It is reiterated in subsequent decisions reported in **Jaseer S.M v. State of Kerala (2024 (1) KHC 269)** and **Mohammed Kaiz v. State of Kerala (2024 ((2) KHC 218)**.

10. The considerations and conditions for granting bail in an NDPS case has been considered and settled in the decision reported in pain in **State of Kerala v. Sreebabu (2023 (4) KHC 405)**. 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 the case against the petitioner that he possessed 211.4 grams of methamphetamine while travelling in a KSRTC bus from Coimbatore to Palakkad on the morning of 29.9.2025 at 7:50 AM, cannot prima faice 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 in section 37 of the NDPS Act that, he is not guilty of that offence.

12. With respect to the second condition in that section of law that, there is no likelihood of his committing the very same offence while on bail, though, he has no criminal antecedents, it by itself cannot be taken to grant him bail because of the reason that it is mandatory that both the conditions in Section 37 of the NDPS Act has to be satisfied for granting bail in a case involving commercial quantity of the contraband. 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 he is stated to have done.

13. Ofcourse, that there may be shortcomings and flaws in the procedural formalities involved in this case. But there are authorities to the effect that non

compliance of the statutory requirements is a matter of evidence which is to be proved in trial, and it is no ground for granting bail to an accused, (**See. Surendran V. State of Kerala 2022 (6) KHC 262 and 2024 KER 59629**)

14. Cumulative effective, all these aspects make me to feel that it is not possible to grant the petitioner bail and hence this petition can only be dismissed. Point is answered against the petitioner.

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

Prepared in Google dogs voice typing app, corrected by me and pronounced in open court on this the 10th day of June 2026.

Sd/-
Additional Sessions Judge - II

**Fair/Copy of Order in
Crl.MP No. 02/2026 in
SC No. 363/2026
Dated: 10.06.2026**