

IN THE COURT OF THE ADDL. SESSIONS JUDGE -IV,
THIRUVANANTHAPURAM

PRESENT : SRL SUDHAKANTH. R, ADDL SESSIONS JUDGE – IV

Monday the 9th day of March, 2026/ 18th Phalguna, 1947

CRIMINAL M.P. No.4/2026 IN SC.141/2026

(Crime No.934/2025 of Kovalam Police Station)

Petitioners/ 1st & 4th Accused:-

- 1 Syam Mohan, aged 36 years, S/o Mohan Kumar, now residing at TC 10/1998, Puthuvavila Veedu, Near IAS Colony, Manchadimukku, Kanjirampara Ward, Vattiyoorkavu Village (rented house owned by Shilpa) from Tharamel Veedu, Sivalayam Road, Gandhiji Nagar, Melaranoor desom, Jagathy ward, Thycaud Village, Thiruvananthapuram-695141
- 2 Reshmi, aged 32 years, D/o Ramani, now residing at TC 10/1998, Puthuvavila Veedu, Near IAS Colony, Manchadimukku, Kanjirampara Ward, Vattiyoorkavu Village (rented house owned by Shilpa) from Ramachandra Sadanam, Kuzhithalamkode desom, Malayinkeezhu Village, Neyyattikara Taluk.

(By Adv. R. Shafeek)

Counter Petitioners:-

- 1 State of Kerala represented by Public Prosecutor, Thiruvananthapuram
- 2 Station House Officer, Kovalam Police Station

(By Adv. Sri. R. Praveen Kumar, Addl. Public Prosecutor)

This petition is coming on for hearing on **19.02.2026** and the Court on **09.03.2026** passed the following:-

O R D E R

This is an application for bail filed by the learned counsel for the accused No. 1 and 4 u/s 483 of BNSS 2023.

2. The accused 7 in number stand charge sheeted by the Police Inspector, Kovalam Police Station alleging offences u/s 8 (c), 22(c), 20(b) (ii) A and 29 of the Narcotic Drugs and Psychotropic Substance Act 1985 and u/s 238 of BNS

3. The prosecution allegation can be summarised as follows:

On 30/07/2025 at about 15:00 hours accused Nos. 1 to 4 found in conscious possession and transporting hybrid ganja to the tune of 10.70 grams kept in a flip cover and 0.501 KG MDMA kept concealed in bag and transporting the same in car bearing registration No. KL 02 BU 8656 through the public road near Kovalam junction and passing through the by pass public road. The offence was detected by the Sub Inspector of police of Anti Narcotic Squad, Thiruvananthapuram. The accused were apprehended and the contraband item were sized into custody on complying with the statutory formalities. On enquiry it was realized that accused No. 5 to 7 hatched up a conspiracy with accused Nos. 1 to 4 to procure the contraband item and transferred money to be paid as consideration. Thus the accused alleged to have committed the aforesaid offence.

4. The avements in the application can be summarised as follows:-

The petitioners are arrayed as accused Nos. 1 and 4 respectively in the above case. The petitioners were arrested on 31/07/2025 at 3:00PM and produced before the Judicial First Class Magistrate court – Neyyatinkara on 31/07/2025 at 5:10 PM and it was after 24 hours of their arrest . The petitioners are in judicial custody for the last 195 days. It is true that as per the prosecution allegation the contacted alleged to have been seized from the custody of the accused is the commercial quantity and petitioners are not entitled for bail in the light of the Provision contained in section 37 of the NDPS Act. The investigation of the case has been completed . The further custody of the petitioners is not necessary to serve any purposed for the prosecution. As the petitioners were kept in custody of the police for mere than 24 hours the arrest is illegal and there is violation of the provision in Article 22 (2) of the Constitution of India. The liberty of the petitioners was curtailed since 30/ 07/2025 at 3:00 PM and they were produce before the Magistrate on 31/07/2025 at 5:10 PM. As such the arrest is vitiated and petitioners are entitled for an order enlarging them on bail. The petitioners were not made aware of the quantity of contacted involved in the above case, so that they can take appropriate defence . Though arrest memo was prepared and the grounds for arrest was served upon the petitioners, there was no reference as to the quantity of contraband involved. Thus the Constitutional and the Fundamental Right be informed of the grounds for arrest has not been complied. 1st petitioner is aged 31 years and 2nd petitioner is lady aged 32 years and they are having

no antecedence of involvement in any other case of similar nature . The Petitioners are ready to abide any condition imposed by this court in the event of granting bail.

5. The Inspector of police, Kovalam police station filed a factual report against granting bail. It is contended in the report that the petitioners / accused No. 1 and 4 had visited Bangalore and procured hybrid ganja to the tune of 10.7 gram and methamphetamine having quantity of 0.501 gram and there were conspiracy hatched upon by them with the co accused. It is further contended that if the petitioners are enlarged on bail there is every chance of repetition of the similar offence.

6. Heard both sides. Learned Additional public prosecutor opposed the application. It is urged for the prosecution that there is sufficient material to prove that the petitioners are involved in alleged offence and they were traveling on the car in which the contraband item was being transported along with accused No. 2 and 3. According to the prosecution the quantity of contraband involved is a commercial quantity and there is no ground to dilute the rigor of the twin condition u/s 37 of the NDPS Act. The learned counsel for the petitioner reiterated the ground as urged in the bail application at the time fo the argument.

7. On a meticulous scrutiny of the materials on records, it can be realized that the petitioners were travelling in the vehicle in which the contraband was being transported . The case of the petitioners are that they were not informed of the quantity of contraband involved at the

time recording their arrest or when the grounds for the arrest was informed . It is further contended that though their liberty was curtailed by the detecting officer on 30/07/2025 at 3:00 PM , they were produced before the Judicial First Class Magistrate Court- Neyyatinkara only at 5:10 PM on 31/12/2025, which is after 24 hours since their liberty was actually curtailed beyond the prescribed period, render the arrest illegal.

8. The learned counsel for the petitioner relied on the decision **Viswajit Mandal V Inspector Narcotic Control Bureau reported in 2025 (5) KHC 361 and Yazin S V State of Kerala reported in 2025 KHC 2383** to substantiated the above stated contention. It can be seen from the case diary that the accused were found carrying the alleged contraband and the offence was detected by the detecting officer on 30/07/2025 at 3:00 PM and they were produced before the learned Magistrate at 5:10 PM on 31/07/2025. It can be seen that the arrest memo was prepared at the time of apprehending the petitioners and same is affixed with their signature. It can be also seen that at the time of arrest, the notice informing the grounds for arrest was served upon the petitioners at the time of arrest. There is no whisper as to the description and the quantity of contraband involved in the above case is stated in the above documents. It is true that in the arrest intimation memo of the petitioners the description and the quantity of the contraband is specifically stated. The point for consideration is whether the existence of above stated discrepancy as to not stating the description and quantity of the contraband in the arrest memo as well as in the notice of information of the arrest would make the arrest illegal. In the decision in

Yazin S v State of Kerala reported in 2025 KHC (reported in 2025 KHC 23830 it has been held “10. *The mode of communication of grounds of arrest is to be in such a manner that the effectiveness of the same deserves to be tested on the touchstone whether the mode of communication subserves the fundamental object mentioned above. Non – Compliance of this constitutional requirement and the statutory mandate would lead to the custody or the detention of the arrestee or detainee being rendered illegal, as it would amount to violation of the fundamental right of the arrestee or detainee . Filing a chargesheet and order of cognizance will not validate the arrest which is per se unconstitutional . The burden is on the police to establish that the grounds of arrest were properly communicated to the arrestee. { Vide : Pankaj Bansal v. Union of India [(2024) 7 SCC 576], Prabir Purkayastha v State (NCT of Delhi) [(2024) 8 SCC 254], Kasireddy Upender Reddy v. State of Andra Pradesh [2025 SCC OnLine SC 1228] , Vihaan Kumar v. State of Hariyana [(2025) 5 SCC 799], Mihir Rajesh Shah v. State of Maharashtra and Another [2025 SCC OnLine SC 2356 , Shahina v. State of Kerala [2025 (5) KHC 203] and Vishnu N.P.v State of Kerala [2025 KHC OnLine 1262]}*

11. *On a perusal of the records of investigation, it is noticed that the grounds for arrest have not been communicated as contemplated by law as there is no reference to the nature of contraband or the quantum seized from the petitioner. Though in the arrest intimation there is reference to the nature of contraband , there is no mention about the*

quantity seized . In view of the above , I am satisfied that the grounds for arrest were not communicated as contemplated by law”

9. It can be seen from the remand report that the petitioners were produced before the Judicial First Class Magistrate Court – Neyyattinkara on 31/07/2025 at 5:10 PM. As per the arrest memo of 1st petitioner it is recorded that he was arrested at 17:20 hours on 30/07/2024 and the arrest of 2nd petitioner was record at 17: 50 hours on 30/07/2025 . The certificate of examination of petitioners 1 and 2 by the medical officer after their arrest is appended to the remand report. It is can be seen in the certificate of examination of petitioner No.1 that he was produced before the Medical officer in Community health center Vizhinjam 3: 45 PM on 31/07/2025 and 2nd petitioner was produced at 3:55 PM on the same day. It is stated in the recovery mahazar that the vehicle in which the petitioners were traveling were intercepted by the police at 3:00 pm on 30/07/2025 and the petitioners were in custody of police since the above time till they were produced before the Magistrate with remand application at 5:10 PM on 31/07/2025. Thus the above record would show that they were produced before the Magistrate only after 24 :00 hours since the time in which their personal liberty was actually curtailed. Then the points arise for consideration is the time time which is to be reckoned for computing the 24:00 hours for producing the arrestee before the Magistrate is the time at which the arrest was recorded or the liberty of the arrestee was actually curtailed . In the decision in **Biswjith Mandal v. Inspector , Narcotic Control Bureau reported in 2025 (5) KHC 361** it has been held “ 20. Hence the period of twenty -

four hours to produce an accused before the Magistrate commences not when the actual time of arrest is recorded by the police, but runs from the time when the accused was effectively detained or his liberty was curtailed.

21. Adverting to the facts of the case, the mahazar reveals that petitioner was taken into custody at 3:00 pm on 25/01/2025, while his arrest was recorded at 2:00 pm on 26/01/2025 , but produced before the Magistrate only at 8:00pm on 26/01/2025. The liberty of the petitioner was effectively curtailed from 3:00 pm on 25/01/2025, from which period onwards , he was under the control of the NCB officers. Though the notice for giving the statement under S.67 of the Act was given to the petitioner , even before and after service of notice , petitioner was under the custody of the NCB Officers. There was not a moment after 3:00 pm on 25/01/2025 till his arrest , when he could have been regarded as being free. However , the petitioner was produced before the Magistrate only at 8:00 pm on 26/01/2025. Therefore, there has been an unrecorded period of custody , which indicates illegal detention. Petitioner is hence required to be enlarged on bail.”

10. Considering the grounds urged in the bail application and in the light of facts discussed above, in the light of the principles embodied in the above cited decision , it can be realized that the grounds for the arrest was not properly informed to the petitioners at the time of recording their arrest and they were detained in custody for an unrecorded period since the time when their personal liberty was actually curtailed till the time of recording their arrest and they were

produced only after a period of 24 :00 hours before the Magistrate would render their arrest vitiated. Considering the above this court is considered view that bail can be granted to the petitioners 1 and 2 subject to stringent conditions.

In the result, the application is allowed on the following terms:-

- 1) Petitioners No. 1 and 2 (accused Nos. 1 and 4) shall execute separate bail bond for a sum of Rs. 1,50,000/- each with two solvent sureties each for the like sum. It is made clear that the sureties shall produced the original documents with true copies for proving their solvency and verification by the court. The original documents to be returned after verification.
- 2) Petitioners No. 1 and 2 (accused Nos. 1 and 4) shall appear before the Sub Inspector of Police, Kovalm Police Station on every Friday between 11:00 AM to 1:00 PM until further order.
- 3) Petitioners No. 1 and 2 (accused Nos. 1 and 4) shall not involve in any other case of similar in nature during the pendency of this bail failing which the bail bond will be stand forfeited and cancelled.
- 4) Petitioners No. 1 and 2 (accused Nos. 1 and 4) shall not leave the territory of Union of India without obtaining to the prior permission of the Court, the petitioners shall surrender their Indian Passport before the court in a period of 10 days of their release from

custody. If they are not holding a passport they shall filed an affidavit in that regard.

- 5) Petitioners No. 1 and 2 (accused Nos. 1 and 4) shall not make any attempt to influence or intimidate either expressly or by necessary implication of any of the independence witness for the prosecution.

(Dictated to the Personal Assistant, transcribed and typed by him, corrected and pronounced by me in open Court on this the 9th day of March, 2026)

Sd/

SUDHAKANTH. R
ADDL. SESSIONS JUDGE-IV

// True Copy//

By Order
Sd/-

Typed by : Sreeja
Compared by: Smitha

SHERISTADAR

Copy of Order in
Crl. M.P.No.4/2026 in SC 141/2026
Dated: 09.03.2026