

IN THE COURT OF THE ADDL. SESSIONS JUDGE -IV,
THIRUVANANTHAPURAM
PRESENT : SRL SUDHAKANTH. R, ADDL SESSIONS JUDGE – IV
Wednesday the 29th day of April, 2026/ 9th Vaisakha, 1948

CRIMINAL M.P. No.543/2023 IN Crl. MC.1255/2019

(Crime No.80/2018 of Vellarada Police Station)

Petitioner:-

State of Kerala represented by Public Prosecutor,
Thiruvananthapuram

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

Respondent /Accused :-

Nithin Udayan, aged 24 years, S/o Udayakumar,
Kattuvila Puthen Veedu, Vencode, Chariyakolla,
Konnathukal Village.

(By Adv. Kulathoor S.V. Premakumaran Nair)

This petition is coming on for hearing on **13.03.2026** and the
Court on **29.04.2026** passed the following:-

O R D E R

1. This application is filed by the prosecution under Sections 439(2) Cr.PC to cancel the bail granted to accused No. 4 for violation of bail condition.

2. The above application has been filed by the learned additional public prosecutor accompanied with an affidavit of the Inspection SHO Vellarada Police station .

3. The averments in the application can be summarised as follows:-

The respondent is accused No. 4 in Vellarada Police station crime 80/2018 U/ss 143, 147, 148, 149 , 341, 324, 326 and 307 IPC. This court granted bail to the respondent as per order in Crl. MC- 1255/2019 dated 27/05/2019. The condition No. 3 in the order granting bail is that *(iii) the petitioners shall not involve in any similar offence with on bail.* The respondent violating the above terms of the order involved in crime 480/2022 U/ss 365, 294(b), 323, 324, 308 and 395 IPC and in Vellarad Police station crime 1300/2022 U/ss 294(b), 323, 354, 354 A r/w 34 IPC. The respondent has misused the liberty granted to him by way of bail and violating the terms of granting bail involved in the above cases. Therefore the bail granted to the petitioner as per order in Crl MC- 1255/2019 dated 27/05/2019 may be cancelled .

4. The notice was issued to the respondent could not be served as he was not available in the address. Then the notice was given to the counsel for the respondent but he did not turn up . This court issued warrant for procuring the presence of the respondent and same was returned un executed with report that he is

absconding. There is no objection filed against the application by the respondent.

5. This court granted bail to the respondent as per order in Crl MC 1255/2019 dated 27/05/2019. It can be seen from the copy of the order in Crl MC 12855/2019 dated 27/05/2019 that the 3rd condition in the order granting bail is that the petitioners shall not involved in any similar offence while on bail. The respondent is the 3rd petitioner in the above application. According to the petitioner after executing the bail bond and enlarging the respondent on bail, he is involved in Vellarada Police station crime 480/2022 registered U/ss 365. 294(b), 323 , 324 , 308 and 395 of IPC. The prosecution allegation in the above case is that the accused 1 to 6 in the above stated case on 01/04/2018 hatched up a conspiracy to commit murder and with a common object to commit murder the defacto complainant appeared at the place named Thannimoodu and so as to manifest the common object of their unlawful assembly with the knowledge of the fact that the defacto complainant is about to pass through the public road at that place. When the defacto complainant appeared there, while traveling in a motor cycle bearing registration No. KL 20 C 4338 as a pillion rider, accused No.1 at once kicked over his body and when he fell down, accused Nos . 1 to 4 , who were carrying dangerous weapon namely iron stick , repeatedly beat over vital parts of body and sustained severe injuries. Thereafter accused Nos. 1 to 4 left the place after snatching away the gold chain and the gold ring worn by the

defacto complainant in an autorickshaw brought by accused Nos. 5 and 6 at the place.

6. The allegation in crime 1300/2022 of Vellarada Police station is that on 28/12/2022 the respondent approached the victim lady aged 73 years , who is residing at the place in Karakonam desom of Kunnathukal Village and uttering abusive words, so as to outrage her modesty forcefully pulled her hand so as to carry her in a motor car. When the persons named Jayadevan and Gopakumar questioned the illegal act committed by the respondent , he insulted them and left the place.

7. The point that arise for consideration is :-

- 1 Whether the involvement of the respondent in 2 offence subsequent to enlarging him on bail as per order in CrI MC 1255/2019 dated 27/05/2019 is sufficient for cancelling the bail all ready granted ?

8. **The point** :- The respondent was accused No. 5 in crime No. 80/2018 of the Vellarada Police Station. The offence alleged to have been committed by the accused in the above case is u/ss 143, 147, 148, 341, 324, 326 and 307 r/w 149 IPC. The offence alleged to have been committed is severe in nature. It is sworn by the Inspector of Polcie Vellarada Police station in the accompanying affidavit that after enlarging the respondent in on bail in crime No. 80/2018 he is involved in Vellarada Police station crime 480/2022 . The offence alleged to have been committed by the accused in the above stated case is grave in nature and the records

furnished by the petitioner would indicate that the respondent had actively participated in the alleged crime. The respondent is the sole accused in Vellarada Police station crime 1300/2022 and the victim is a lady senior citizen.

9. The question germinate for consideration whether the bail granted to the petitioner can be cancelled for the involvement of respondent in other crimes subsequent to granting bail. In the decision in the decision in *Imran V. Muhammed Bhaba* (2022 SCC OnLine SC- 496) it has been held that certain supervening circumstances impeding a fair trial must develop after granting bail to an accused. It is also observed that the cancellation of bail already granted would indeed would a significant scrutiny. In *P v. Madhayapradesh and another* (2022 SCC OnLine SC – 552) the Hon'ble Supreme Court has observed that when the accused misuses the liberty by involving in any other offence of similar nature, that can be considered as a ground for cancellation of bail already granted.
10. The offence alleged to have been committed by the respondent in Vellarada police station crime 80/2018 is a grave in nature. The offence committed by the accused in Vellarada police station crime 480/2022 is much grave than the offence in Vellarada Police station Crime 80/2018. The Vellarada Police station crime 1300/2022 was committed against a old age lady who is a senior citizen. The above said facts prima facie indicate that the respondent has misused

the liberty granted to him by way of bail in Vellarada Police station crime 80/2018 and disobeyed condition No. 3 in the order granting bail. The respondent has not turned up and his presence could be procured. The learned counsel for the respondent also did not turn up on service of notice. The respondent is reported to be absconded. Considering the above discussed facts it can be rightly inferred that the respondent has misused the liberty granted to him by way of enlarging him on bail and there is sufficient grounds for cancelling the bail granted to him as per order in Crl MC No. 1255/2019 dated 27/05/2019. This point is answered against the respondent.

11. In the result, the bail granted to the respondent as per order in Crl Mc. 1255/2019 dated 27/05/2019 is hereby ordered to be cancelled. The Inspector of police Vellarada Police station is at liberty to file report before the jurisdictional court for an order keeping the respondent in custody and issue non bailable warrant for procuring his presence.

(Dictated to the Confidential Assistant, typewritten by her in the computer, corrected and pronounced in the Open Court by me on the 29th day of April, 2026)

Sd/

SUDHAKANTH. R
ADDL. SESSIONS JUDGE-IV

// True Copy//

By Order
Sd/-

SHERISTADAR

Copy of Order in
Crl. M.P.No.543/2023 in Crl MC 1255/2019
Dated: 29.04.2026