

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE –III,
NEYYATTINKARA**

**Present: Sri. Albin J.Thomas,
Judicial First Class Magistrate -III**

Dated : Tuesday, 2nd June, 2026/ 12th Jyaishta, 1948

CMP. No. 482/2024 in CC 3834/2022

(CRIME No. 243/2022 OF NARUVAMOODU POLICE STATION)

Complainant : State of Kerala represented by Inspector of Police
Naruvamoodu police station in crime No. 243/2022.

Respondent/Accused Represented by Sri. Vishnu Thampi, APP
Prasad, Aged 35/22, S/o Balakrishnan,
Panavila Kunnathu Mele Puthen Veedu,
Near Nadukkadu Market, Pallichal Village.

Sentence or Order : Represented by Adv. Arayoor K Ajikumar
Petition is dismissed.

This CMP was heard on 23.05.2026 and this Court passed the following on 02.06.2026.

ORDER

1. This is a petition filed by the Inspector of Police, Naruvamoodu Police Station to cancel the bail granted to accused in crime No.243/2022 of Naruvamoodu police station.
2. The petition averments in brief is as follows: The accused was initially arrested in connection with Naruvamoodu Police Station crime No.243/2022 for the offences punishable u/s.294(b), 323,324 and 506(i) of IPC and section 27 of Arms Act. He was released on bail as per order in CMP 3102/2022 dated 22.06.2022 on conditions. One of the condition is that the accused shall not commit similar offences or be involved in any other crimes herein after. But violating the bail condition the accused was involved in Crime No. 6/2024 for the offence punishable u/s. 341, 294(b), 323, 324 and 308 r/w 34 IPC section

27 Arms Act of Naruvamoodu Police Station. Since the accused violated the bail condition the bail granted to him is to be cancelled. Hence the petition.

3. Notice issued to the respondent/accused. He filed objection as follows: The accused did not commit the subsequent crime. It was the accused who suffered injury in the incident. The accused lodged complaint before DGP and a subsequent crime was registered against the defacto complainant in the case as Crime No. 157/2024 of Naruvamoodu Police Station. The false case was registered against him only due to the political enmity. The petition is not maintainable and is only to be dismissed.
4. This Court, after hearing both parties vide, its Judgment dated 08.07.2024 cancelled the bail of the accused. Subsequently, the accused preferred Crl MC No. 1733 of 2026 before the Hon'ble High Court of Kerala. The Hon'ble High Court vide its order dated 05.03.2026 set aside the order of this Court and directed this court to reconsider the petition.
5. Heard learned APP and learned counsel for the respondent/accused. The point that arise for consideration is:
 - (1) Whether the bail granted to accused in crime No.243/2022 is to be cancelled?
6. **Points No.1** :- The allegation against the accused is that the accused was initially arrested in connection with Naruvamoodu Police Station No.243/2022 for the offences punishable u/s.294(b), 323,324 and 506(i) of IPC and section 27 of Arms Act. He was released on bail as per order in CMP 3102/2022 dated 22.06.2022 on conditions. One of the condition is that the accused shall not commit similar offences or be involved in any other crimes herein after. But

violating the bail condition the accused was involved in Crime No. 6/2024 for the offence punishable u/s. 341, 294(b), 323, 324 and 308 r/w 34 IPC section 27 of Arms Act of Naruvamoodu Police Station. Since the accused violated the bail condition the bail granted to him is to be cancelled.

7. I went through the files and found that as per the order in CMP 3102/2022 dated 22.06.2022 this court released the accused/respondent on bail upon the condition - (iii) accused shall not commit similar offences or be involved in any other offences during the bail period. It is alleged that during the subsistence of bail, he committed Crime No. 6/2024 for the offence punishable u/s. 341, 294(b), 323, 324 and 308 r/w 34 IPC section 27 of Arms Act of Naruvamoodu Police Station.
8. The conditions to be imposed while granting bail, are contemplated under Sections 437(3) r/w Section 439(1)(a) of Cr.P.C. The condition not to involve in similar offences during the bail period is something which is specifically stipulated in the aforesaid provision. Since such a condition is specifically mentioned in the statute, that would indicate the importance of such condition and the necessity to insist on the compliance of the same. However, the question that arises here is whether a violation of the said condition should result in the cancellation of the bail. Merely because of the reason that such a condition was imposed while granting bail to the accused, that would not result in the cancellation of bail automatically. This is particularly because, since the order of cancellation of bail is something that affects the personal liberty of a person, which is guaranteed under Article 21 of the Constitution of India, unless there are reasons justifying or warranting such an order, the bail already granted cannot be cancelled. In **Dolat Ram and Others v. State of Haryana**

[(1995)1 SCC 349] the Hon'ble Supreme Court has observed as follows:

“5. Rejection of bail in a non - bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are : interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the Court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non - bailable case in the first instance and the cancellation of bail already granted.” The aforesaid view was reiterated in **X v. State of Telangana and Another** reported in **[(2018) 16 SCC 511]**. In **Dataram Singh v. State of Uttar Pradesh [(2018)3 SCC 22]**, it was observed by the Hon'ble Supreme Court in the manner as follows: *"It is also relevant to note that there is difference between yardsticks for cancellation of bail and appeal against the order granting bail. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail*

already granted. Generally speaking, the grounds for cancellation of bail are, interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concessions granted to the accused in any manner. These are all only few illustrative materials. The satisfaction of the Court on the basis of the materials placed on record of the possibility of the accused absconding is another reason justifying the cancellation of bail. In other words, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial." Therefore, while considering an application to cancel the bail on the ground of non compliance of the conditions, the court has to consider the question whether the alleged violation amounts to an attempt to interfere with the administration of justice or as to whether it affects the trial of the case in which the accused is implicated. In **XI, Victim SC No.211 of 2018 of POCSO Court v. State of Kerala and Others [2019(3)KHC 26]**, the Honble High Court of Kerala has laid down the principles with regard to the nature of the enquiry to be conducted by the court concerned, while considering an application for cancellation of bail. In paragraph 9 of the said judgment, it was observed as follows: "9. *But in a case where the victim or the witnesses specifically complains of threat and intimidation and the said aspects are projected either by victim or by the prosecution before the Bail Court through an application as referred to in Ext.P- 5, then it is bounden duty of the Bail Court to consider the correctness or otherwise of the allegations in a summary manner after affording an opportunity of being heard to the prosecution as well as to the*

affected accused concerned whose bail is ought to be cancelled and if possible to the victim as well, in a case like this. In such process of enquiry, the Bail Court could call for the records if any in relation to those allegations and if a separate crime has been registered in that regard, the records in those crimes should also be perused by the Bail Court in order to make an enquiry in a summary manner as to the truth or otherwise of the allegations therein, and after affording reasonable opportunity of being heard to the prosecution, accused and the victim, the Bail Court is expected to discharge its solemn duty and function to decide on the correctness or otherwise of the allegations in such a summary manner and the evidentiary assessment thereof could be on the basis of the overall attendant circumstances as well as the attendant balance of probabilities of the case. Based on such a process, the Bail Court is obliged to take a decision whether the bail conditions have been so violated and if it is so found that the bail conditions has been violated then it is the duty of the Bail Court to cancel the bail, but certainly after hearing the affected party as aforestated. So also, if the said enquiry process reveals that the truth of the above said allegations has not been established in a convincing manner in such enquiry process, then the Bail Court is to dismiss the application to cancel the bail. But the Bail Court cannot evade from the responsibility by taking up the specious plea that since the very same allegations also form subject matter of a distinct crime then the truth or otherwise of the allegations is to be decided by the Criminal Court which is seisin of that crime through the process of finalisation of said impugned criminal proceedings by the conduct and completion of trial therein.”

9. Thus, from all the above decisions, it is evident that, mere violation of the

condition alone is not sufficient to cancel the bail granted by the court. Before taking a decision, the court has to conduct a summary inquiry based on the records, including the documents relating to the subsequent crime and arrive at a conclusion as to whether it is necessary to cancel the bail or not.

10. When coming back to the facts of the case, The learned counsel for accused argued that the subsequent crime was registered against the accused only due to a political vendetta. He argued that it was the accused who originally sustained injuries in the alleged incident. He further argued that the complainant lodged a complaint before the Naruvamood Police Station on the very next day after the alleged incident. A copy of the complaint and the receipt received from Naruvamoodu Police Station was produced from the side of accused. I have perused the same. The date as mentioned in the receipt was 01.01.2024. As per the FIR in Crime No. 6/2024 of Naruvamoodu Police Station, the date of occurrence was 01.01.2024 at 02.00 p.m. A perusal of the receipt from the police station shows that the accused lodged complaint before the police on the same date itself. The accused also produced copy of the wound certificate dated 01.01.2024 to show that he suffered injuries. The learned counsel for accused further argued that the police subsequently registered crime against the defacto complainant in Crime No. 6/2024 of Naruvamoodu Police Station. The accused produced copy of the FIR in Crime No. 157/2024 of Naruvamoodu Police Station which was registered against the defacto complainant in Crime No. 6/2024. The objection raised by the accused itself is that he was falsely implicated in the case due to some political vendetta. A perusal of the records produced from the side of accused shows that there is some merit in his contention.

11. Even though the alleged offences in Crime No 243/2022 and Crime No 6/2024 are similar in nature, the allegations in the subsequent crime are not relating to an act which was allegedly committed by the accused with the intention to intimidate or influence any witnesses in the other crime. Both crimes are entirely different and have no connection with each other. There is a time span of two years between the crimes also. In the case in which the bail is sought to be cancelled, final report was filed after completing the investigation. In **Dataram Singh's** case, it was categorically observed that, "*bail once granted, cannot be cancelled without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. While considering the alleged involvement of the accused in the subsequent crime for cancellation of bail the same alone cannot be a reason to cancel the bail, unless it is shown that the involvement of the accused in the subsequent crime is affecting the trial of the earlier case. If the prosecuting agency is concerned with the commission of repeated offences by the accused person, there are ample statutory provisions available for them to initiate appropriate proceedings for subjecting the accused persons to preventive detention. The stipulations contained in Section 437(5) and 439(2) of Cr.PC cannot be treated as a substitute for preventive detention laws. The legislature has brought into force, various enactments to enable the authorities concerned to keep the persons involved in repeated crimes under preventive detention, despite the stipulations in 437(5) and 439(2) of Cr.P.C. While considering the aforesaid question, the matters such as; the time gap between the crimes, the possibility of false accusation in the subsequent case, bail granted to the accused in the subsequent crime,*

stage of the prosecution of the case in which cancellation of bail is sought, chances of affecting or causing interference in the fair trial of the case, etc. could be relevant."

12. While applying the above principles to the facts of this case, one of the crucial aspects relevant for consideration is whether the subsequent crime interferes with the conduct of a fair trial of the case in which he is involved. The petitioner has no case that the accused attempted to intimidate the witness or, in any other way, interfered with the conduct of fair trial of the case. Such a situation is not there in this case. There are also no allegations raised against the accused that he was involved in any other cases apart from the one in question. The respondent also succeeded to put forward serious discrepancies regarding the authenticity of Crime No. 6/2024 of Naruvamoodu Police Station registered against him. Further, the mere allegation of the involvement of the petitioner in the subsequent crime after the bail was granted, cannot by itself be a reason for the cancellation of bail.

13. Considering the above discussion, I am of the view that there is no merit in the petition and it is liable to dismissed.

In the result, the petition is dismissed.

(Dictated by me, transcribed and typed by Confidential Assistant and corrected by me and pronounced in open court this the 02nd day of June, 2026).

Sd/-

JUDICIAL FIRST CLASS MAGISTRATE – III
NEYATTINKARA

// True Copy//

JUDICIAL FIRST CLASS MAGISTRATE – III
NEYATTINKARA