

IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE-III, KOLLAM

Present:- Smt. Dhanya, Civil Judge (Jr. Division)

Dated this the 27th day of March, 2026

CMP NO. 2/2026 in CRIME NO. 76/2026

KOLLAM WEST POLICE STATION

Petitioner/ Accused : Sayid Muhammed Al Kahar, aged 35,
S/o. Thangalkunju, T S Nivas, Kadappamuri,
Mynagapally Village, Karunagapally taluk
Kollam.

(By Adv. Salraj)

Respondent : The State Of Kerala represented by
Sub Inspector of Police,
Kollam West Police Station

(By A.P.P Gr-II, Kollam.)

Offence : U/ss. 296(b), 351(2) and 79 of the Bharatiya
Nyaya Sanhita (BNS), 2023.

Order : Allowed

This petition is coming up for hearing on today's proceeding, the court passed the following:-

ORDER

The above case is registered against the petitioner, alleging offences punishable under Sections 296(b), 351(2) and 79 of the Bharatiya Nyaya Sanhitha, 2023.

1. The prosecution's case in brief is as follows: on 13/1/2026 at 4:15 PM the defacto complainant in this case, who is an advocate clerk, was standing in the corridor of the JFMC I court, Kollam. The first accused alleged to have recorded her video without her consent and threatened to upload the same on social media with the intention of harming her dignity. It is further alleged that the first accused/ petitioner, the petitioner intimidated and uttered obscene words and defamatory statements against the de facto complainant in this case. The second and first accused alleged to have committed the above said offence in furtherance of their common intention.

Hence the petitioner along with the second accused alleged to have committed offences punishable under section 296(b), 351(2) and 79 of BNS.

2. The accused was arrested, produced and remanded to judicial custody on 21.02.2026.

3. The learned counsel for the petitioner submitted that the petitioner is innocent of the allegations and sought to allow this petition primarily because the allegations against the petitioner are false and baseless, and that he is innocent.

4. A report was called for from the investigation officer. He has filed a report opposing the bail application. The report mentions that if the accused is released on bail, there is a strong likelihood that he may intimidate the victim and witnesses. Furthermore, it is stated that if the petitioner is released on bail, there is a chance he might abscond and commit similar offences.

5. The learned Assistant Public Prosecutor submitted that the offences alleged are serious in nature. Hence, she sought the dismissal of the petition.

6. Heard both sides and perused the records.

7. From the records produced, it can be seen that the petitioner has been in custody for the last 34 days. The petitioner has already undergone a significant period in custody, and there is no material to indicate that further detention is necessary for the progress of the investigation. The scope of any custodial interrogation is also bleak. Thus, it appears that the primary stage of the investigation is over. Further detention of the petitioner is not warranted. The apprehension that the petitioner may tamper with evidence or influence witnesses can be effectively addressed by imposing stringent conditions. Moreover, continued incarceration at this stage would serve no meaningful purpose other than punitive pretrial detention, which goes against the settled principles of bail jurisprudence.

8. Moreover, it is a well-accepted principle that bail is the rule and jail is the exception. The Hon'ble Supreme Court in ***Chidambaram. P v Directorate of***

Enforcement [2019 (16) SCALE 870], after considering all the earlier judgments, observed that the basic jurisprudence relating to bail remains the same since the grant of bail is the rule and refusal is the exception to ensure that the accused has the opportunity of securing a fair trial. In **Jalaluddin Khan v. Union of India [2024 KHC 6431]**, the Hon'ble Supreme Court observed that: *“Bail is the rule and jail is an exception” is a settled law. Even in a case like the present case, where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good, with only the modification that bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Art.21 of our Constitution.*” The Hon'ble Supreme Court in **Chidambaram. P v Directorate of Enforcement [2019 (16) SCALE 870]**, after considering all the earlier judgments, observed that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing a fair trial.

9. Considering the dictum laid down in the above decisions and the specific facts and circumstances of this case, this court is of the view that the petitioner is entitled to be released on bail. Therefore, in the interest of justice, I am inclined to grant bail to the petitioner, subject to strict conditions to ensure their presence during the trial and to prevent any interference with the investigation or the due course of law.

10. In the result, this petition is allowed on the following conditions.

1. The petitioner/1st accused shall execute a bond of Rs. 50,000/- with two solvent sureties, each of the like sum.
2. The petitioner/1st accused shall not commit similar offences while on bail.
3. The petitioner/1st accused shall appear before the court as and when directed.

4. The petitioner/1st accused shall appear before the Investigating Officer between 10 a.m and 12 p.m, every Monday for one month from today and thereafter as and when required by the Investigating Officer through a written notice until further orders or the completion of the Investigation.
5. He shall not influence or intimidate any witness.
6. He shall co-operate with the investigation.

(Pronounced by me in open court on this, the 27th day of March, 2026)

Civil Judge (Jr. Division), Kollam.