

IN THE COURT OF SESSIONS, ERNAKULAM DIVISION

Present:-

Sri. Syamlal S.R, Additional Sessions Judge – II

Monday, 16th day of March, 2026/25th Phalguna, 1947

BA No.499/2026

(Crime No.30/2026 of Palarivattom Police Station)

Petitioner/

Accused No.1:

Jenny Varghese, aged 51 years, S/o.Varghese,
residing at Kanjiravelil House, Pazamthottam
P.O., Ernakulam District, Pin-683565.

By Adv. Roy Pallikoodam

Respondent/

Complainant:

State of Kerala represented by Public Prosecutor,
District & Sessions Court, Ernakulam-682 011.

By Public Prosecutor Sri. Anver Basheer

This petition filed u/s.483 of Bharatiya Nagarik Suraksha Sanhita praying this Court to grant regular bail to the petitioner.

This petition coming on for hearing on 13.03.2026 and the Court on 16.03.2026 passed the following:

ORDER

This application is for bail filed u/s.483 of BNSS by accused No.1 in crime No.30/2026 of Palarivattom Police Station, Ernakulam. The offences alleged against the accused No.1/ petitioner are u/s 316(2), 318(4), 336(2), 338, 340(2), 336(3) and 3(5) of BNS.

2. Prosecution case in brief, is stated as follows:- Accused Nos. 2 to

4, who are conducting Kanjiravelil Traders (Accused No. 5), with the intention to cause unlawful loss to Cholamandalam Investment and Finance Company Ltd. and to make unlawful gain, forged documents with respect to 37.97 Ares of property belonging to the first accused and 26.17 Ares of property belonging to the second accused. Thereafter, Accused No. 1 submitted a loan application, signed by Accused Nos.2 to 4 as co-borrowers, before Cholamandalam Investment and Finance Company Ltd. to avail a loan for Accused No.5 company and also produced the forged documents as security. Based on that application, on 15.02.2023, Cholamandalam Investment and Finance Company Ltd. sanctioned a loan of ₹5,12,02,654/-, and the loan amount was transferred to the account of the fifth accused / company. After receiving the loan amount, the accused did not repay the amount. Therefore, it is alleged that the accused committed the aforesaid offences.

3. The petitioner/Accused No.1 was arrested on 19.02.2026 and has been in custody since then.

4. The petitioner's case in brief, is stated as follows:- The complaint is absolutely false and concocted. The police, without issuing notice to the petitioner, arrested him from Ernakulam Stadium on the basis of a fabricated story given by Cholamandalam Investments and Finance Company. The petitioner is entitled to be released on bail as he satisfies the well-recognised conditions for granting bail. There is absolutely no risk of the petitioner fleeing

from justice, committing any similar offence, interfering with the investigation, tampering with evidence, or intimidating witnesses. The petitioner has not committed any offence whatsoever. The Hon'ble Supreme Court has repeatedly held that bail is the rule and jail is the exception. However, the petitioner was remanded to custody without insisting on the production of any material whatsoever and without properly considering the submissions made by the counsel for the petitioner. Consequently, grave injustice has been caused to the petitioner. The petitioner is a heart patient who has undergone angioplasty in the recent past. The allegation that the petitioner availed credit facilities from the bank by submitting photocopies instead of original documents is made without any factual basis. The petitioner is entitled to the presumption of innocence until proven guilty. No purpose will be served by the continued detention of the petitioner. According to the petitioner, he is therefore entitled to get bail.

5. The Sub Inspector of Police, Palarivattom Police Station, filed a report stating that the petitioner is an accused in Crime No.424/2025 u/s 316(2), 318(4), 3(5) BNS of Palarivattom Police Station; crime No.157/26 u/s 316(2), 318(4), 3(5) BNS of Palarivattom Police Station; crime No.687/25 u/s 316(2), 318(4), 3(5) BNS of Elamakkara Police Station; crime No.1679/25 u/s 420, 465, 467, 468, 471, 474, 34 IPC of Puthencruz Police Station. The investigation of the case is at a preliminary stage. The accused had obtained money, which

includes public money, by creating forged documents. Therefore, strong action is required against the accused. If the petitioner, who has committed a grave economic offence, is granted bail, there is every possibility of him committing similar offences, destroying evidence, influencing or threatening witnesses, and absconding. He requested for the dismissal of the bail application.

6. Heard the counsel for the petitioner and Additional Public Prosecutor.

Points for consideration are:-

1. Is the petitioner entitled to get bail?
2. What is the final order to be passed?

7. **Point No.1:-** The counsel for the petitioner argued that the petitioner has not committed any offence as alleged by the prosecution. According to him, the petitioner is entitled to be granted bail as there is no flight risk and no possibility of the petitioner influencing or threatening the witnesses. He further argued that grant of bail is the rule and jail is the exception and that no purpose will be served by detaining the petitioner in custody. He also contended that, even according to the prosecution, the alleged offences were committed prior to the enactment of the BNS. Therefore, the petitioner cannot be held liable under any of the provisions of the BNS as claimed by the prosecution.

8. Additional Public Prosecutor strongly opposed the bail application on the ground that the offences committed by the petitioner are grievous in nature and that the investigation is at a preliminary stage. He further submitted that the petitioner is involved in four other crimes of a similar nature and that, if he is granted bail, there is a possibility of him absconding and committing similar offences again.

9. In **Chidambaram P. v. Central Bureau of Investigation (2019 KHC 7072)**, the Hon'ble Apex Court enumerated the following factors to be taken into consideration while considering an application for bail:

- (i) the nature of the accusation and the severity of the punishment in the event of conviction and the nature of the materials relied upon by the prosecution;
- (ii) the reasonable apprehension of tampering with witnesses or threat to the complainant or the witnesses;
- (iii) the reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his absconding;
- (iv) the character, behaviour, and standing of the accused and the circumstances peculiar to the accused; and
- (v) the larger interest of the public or the State and other similar considerations.

In view of the above legal proposition, this Court will consider whether the petitioner can be granted bail.

10. The accusation in this case is that Accused Nos. 1 to 4 created two forged documents in respect of properties standing in the names of Accused Nos. 1 and 2. It is further alleged that the said forged documents were produced as genuine before Cholamandalam Investment and Finance Company Limited and, on that basis, a loan of ₹5,12,02,654/- was availed for Kanjiravelil Traders, which is conducted by Accused Nos. 1 to 4. Therefore, the accusation against the petitioner is a serious economic offence.

11. The report filed by the Investigating Officer shows that the loan was availed by producing forged documents on 15.02.2023, that is, before 01.07.2024, the date on which the BNS came into effect. Therefore, there is prima facie material to show that the alleged forgery was committed prior to the enactment of the BNS. Hence, the offences applicable in this case are those under the IPC. However, instead of quoting the offences under the IPC, the crime was registered alleging offences under the BNS. The mere fact of wrong quoting of penal provisions is not a ground at this early stage of investigation to hold that the entire prosecution case is false.

12. The report filed by the Investigating Officer prima facie shows the involvement of the petitioner in the crime. At present, there is no material to show that the petitioner has been falsely implicated in the case. The report of the Investigating Officer further shows that the investigation of the case is at a preliminary stage and that the petitioner is an accused in four other crimes of a

similar nature. Since the petitioner is involved in other similar crimes, the apprehension of the Investigating Officer that, if the petitioner is granted bail, there is a possibility of him committing similar offences and absconding cannot be ruled out at this stage.

13. Considering the fact that the accusation against the petitioner is a grave economic offence, that the investigation of the case is at a preliminary stage, and that the petitioner has similar criminal antecedents, and that there is a possibility of him committing similar offences if released on bail, it is held that the petitioner cannot be granted bail solely on the legal proposition that bail is the rule at this early stage of investigation.

14. **Point No. 2:-**

In the result, the petition is dismissed.

Dictated to Adalat AI, corrected and pronounced by me in open court on this the 16th day of March 2026.

Sd/-
Syamlal S R
Additional Sessions Judge-II

Typed by: Sindhu.S.T.

Comp.by:

BA No.499/2026
Order dated: 16.03.2026