

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-III  
THIRUVANANTHAPURAM**

**Present:-Smt. Tania Mariam Jose  
Judicial First Class Magistrate-III, Thiruvananthapuram**

**Saturday, the 30<sup>th</sup> day of May 2026**

**CMP 1/2026 in Museum Police Station Crime 762/2026**

- Petitioners/  
Accused
- 1: Nidin Raj, aged 35 years, S/o Rajendran, MVRA 49, Thoppumukku Kallumala, Peroorkada, Vazhottukonam ward, Peroorkada (PS Limit), Thiruvananthapuram.
  - 2: Manoj, aged 43 years, Manoj Kumar, SMS Bhavan, office ward, Vilappil, BP Nagar, Vilappilsala (PS) Limit), Thiruvananthapuram Rural, Kerala.
  - 3: Jeevan, aged 29 years, S/o Jayan, TC. 27/1218, Vanchiyoor ward, Vanchiyoor, near Mithranikethan Hostel, Vanchiyoor (PS Limit), Thiruvananthapuram City, Kerala.
  - 4: Shahil, aged 40 years, S/o Abdul Shokoor, Revathy, TC. 26/37, Vanchiyoor ward, Vanchiyoor, Samad Hospital road, Vanchiyoor (PS Limit), Thiruvananthapuram City, Kerala.
  - 5: Sreejith, aged 30 years, S/o Rajan, Thyvilakam, near Naruvamoodu junction, Pallichal, Naruvamoodu Post, Nemom (PS Limit), Thiruvananthapuram City, Kerala.
- (By Adv. Sri. Madhav Sasija)
- Counter Petitioner/ : State of Kerala Represented by the Inspector of Police,  
Complainant Museum Police Station  
*(By Sri Manu Kallampally, Assistant Public Prosecutor Senior Grade)*
- Offences : Under Sections 189(2),191(2),191(3),190,126(2), 296(b), 132,121(1), 118(1) and 109 of the Bharatiya Nyaya Sanhita and Section 3 (1) of Prevention of Damage to Public Property Act, 1984.
- Order : Dismissed

This case coming on to this day's proceedings, this court passed the following:-

**ORDER**

1. This is the bail application filed under Section 480 of Bhartiya Nagarik Suraksha Sanhita by the petitioners/ accused no. 1 to 5 in Crime No. 762/2026 of Museum Police Station, alleging offences under Sections 189(2),191(2),191(3),190,126(2), 296(b), 132,121(1), 118(1) and 109 of the Bharatiya Nyaya Sanhita and Section 3 (1) of Prevention of Damage to Public Property Act, 1984.
2. The prosecution case in brief is as follows:- On the day of 27.05.2026 the officials of Enforcement Directorate conducted a search at the house wherein the opposition leader of Kerala and his daughter were residing. After the completion of search procedures the Enforcement Directorate Officials left the above said house at around 02.40 pm and left the premises in three taxi cars. While leaving the premises and after reaching the road a huge mob consisting of 300 people surrounded them and caused damages to the taxi cars in which the Enforcement Directorate Officials were leaving, using stones, bricks, sticks and rods and attacked Enforcement Directorate Officials. Same was obstructed by the CRPF officials, Kerala Police and they were also attacked by the mob. Thereby the accused caused damages of Rs. 3,00,000/- to the taxis and committed the offences under Sections 189(2),191(2),191(3),190,126(2), 296(b), 132,121(1), 118(1) and 109 of the Bharatiya Nyaya Sanhita and Section 3 (1) of Prevention of Damage to Public Property Act, 1984.
3. The petitioners/ accused nos. 1 to 5 were arrested and produced before this court on 28.05.2026 and they have been remanded to judicial custody since then.
4. The copy of the bail application was served to the learned Assistant Public Prosecutor.
5. No report was called for from police as the defence counsel raised ground of non communication of grounds of arrest to the relatives of the

petitioners/accused persons.

6. Learned Assistant Public Prosecutor raised well built objection in allowing bail to the petitioners/accused persons. Learned Assistant Public Prosecutor submitted that grounds of arrest were duly communicated to the applicants in writing and there was a compliance of Section 47 Bharatiya Nagarik Suraksha Sanhita and Article 22 (1) of the Constitution of India. Soon after the official memorandum issued by the learned Magistrate, notice showing communication of grounds of arrest were produced before the learned Magistrate. Hence fundamental rights of the petitioners/ accused persons are not violated. The arrest memo, arrest intimation, remand records clearly stated that accused persons were aware about their grounds of arrest from the time of arrest itself. He also produced the decision of the **HON'BLE SUPREME COURT IN MIHIR RAJESH SHAH V. STATE OF MAHARASHTRA AIR 2025 SCC 5554** in support of his arguments. He also asserted that the Constitutional mandate of informing the arrestee the grounds of arrest and his relatives/ friends is complied with. Hence bail may be dismissed.
7. Here question to be looked into is whether bail can be granted to petitioners at this stage. In this crime defacto complainant is Sri.V. Sanath Reddy, Assistant Director, Enforcement Office, Kochi, Ernakulam City. Offences alleged is under Sections 189(2),191(2),191(3),190,126(2), 296(b), 132,121(1), 118(1) and 109 of the Bharatiya Nyaya Sanhita and Section 3 (1) of Prevention of Damage to Public Property Act, 1984. Petitioners/accused persons were arrested and remanded to judicial custody on 28.05.2026. So they are in custody for the last 3 days. On hearing of the bail application defence counsel raised his first contention that grounds of arrest were not communicated to the arrestees and their relatives/friends of the petitioners/ accused persons. So the learned defence counsel argued that accused persons are entitled to bail as there is a violation of statutory compliance of Article 22 of the Constitution and also of the precedents of

Hon'ble High Court.

8. Perused the records. While going through the remand report it is seen that notice under Section 48(1) BNSS was given to Preman, friend nominated by petitioner/accused no.1. Notice under Section 48(1) BNSS was given to Raji who is the wife of petitioner/ accused no.2, to Vishnu friend of petitioner/ accused no.3, to Mahesh brother of petitioner/ accused no.4, to S. Krishnan friend of petitioner/ accused no. A5. All of these persons were nominated as per the choice of petitioners/ accused persons. Section 48(2) BNSS was complied by intimating their arrest to District Legal Service Authority and to Adv. Sri. Hakkim as per the choice of petitioners/ accused persons. Learned defence counsel produced the decisions of the **HON'BLE HIGH COURT OF KERALA IN BAIL APPLICATION NO. 14163 OF 2025, 2025 KHC 1262 VISHNU N.P V. STATE OF KERALA , 2025 KHC 2383 YAZIN S. V. STATE OF KEALA, 2025 KHC 2297 SAINAB V. STATE OF KERALA** in support of their arguments relating to non compliance of constitutional mandate under Article 22 (1) of the Constitution. It is seen from the records that the accused persons were produced before the Magistrate in charge at 14.54 hours. Thereafter an official memorandum was issued by the charge Magistrate to Station House Officer for communicating grounds of arrest to the relatives/friends of the petitioners/ accused. It is evident from the available material that written notice communicating the grounds of arrest to relatives/friends was produced before the learned Magistrate at 16.06 hours. Hence it can be treated as the compliance of statutory mandate u/s. 48 of the BNSS. Only thing to be determined is whether the right of petitioners/accused persons to take appropriate defence and to defend by a lawyer under Article 22 (1) whether safeguarded in this case or not. While looking into the material records it is revealed that arrest of petitioner/ accused no.1 was intimated to his friend A. Premkumar. Arrest of petitioner/ accused no.2 was intimated to his wife Raji. Arrest of petitioner/

accused no.3 was intimated to his friend Vishnu. Arrest of petitioner/ accused no.4 was intimated to his brother Mahesh. Arrest of petitioner/ accused no.5 was intimated to his friend Sreejith. All of the nominated persons put their signatures in the intimation notices. Arrest was communicated to all of the nominated persons prior to production of the petitioners before the Magistrate. At the time of production before the learned Magistrate these communications to the relatives including wife, brother of the accused persons were produced. The notice under Section 48 BNSS was produced before the learned Magistrate within 55 minutes after the production of the accused persons before the learned Magistrate. Before going into the contention raised by learned defence counsel it is inevitable to reproduce certain precedents of various Apex Courts. It is settled from the decision of the **HONOURABLE KERALA HIGH COURT IN 2026 KLT ONLINE 1590 NISAR RAHMAN V. STATE OF KERALA ( JUSTICE KAUSER EDAPPAGATH)** producing notice under Section 48 BNSS within 24 hours after production of accused persons before Magistrate is a proper compliance. In **VISWAS PATIL V.STATE OF GNCTD 2026 DHC 3851 HON'BLE HIGH COURT OF DELHI** decided that “learned counsel for the applicant was present at the time of his production for judicial custody remand. Further the learned trial court has recorded that the applicant acknowledged having being informed of the grounds of arrest and having received a copy were of, thereby prima facie indicating compliance with Section 47 of the BNSS and Article 22 (1) of the Constitution of India.” This decision squarely applicable to the present case. At the time of production of petitioners/ accused persons before the learned Magistrate Junior Advocate Sri. Madhav Sasija was present for the petitioners/ accused persons. Bail application was seen to be filed in time without delay. For hearing of the bail application Senior defence counsel Advocate Sri. Hakkim whose name was mentioned in the remand report appeared before this court for the petitioners/ accused

persons. So this can be treated as a proper compliance of Section 48 BNSS. In **GOLU @ GANESH S/O ANANTRAO MORE V. STATE OF MAHARASHTRA 2025 BHC -NAG 8309, THE HONOURABLE HIGH COURT OF BOMBAY- NAGPUR BENCH** upheld that “ the arrest memo and remand records clearly reflected that the accused was aware about the reasons of his arrest. From the first day of remand, he was legally represented before the court and , thereafter, also be applied for bail shortly after the arrest, which shows that he was informed about his accusations. There is no nothing on record to establish that any prejudice was caused due to the non information of the grounds of arrest or the alleged procedural lapse. The accused is not entitled to bail.” This dictum is also in pari materia applicable to the present case before this court. In this case, grounds of arrest were also communicated to the nominated persons soon after the official memorandum issued by the learned Magistrate that is within 55 minutes from the production of petitioners/ accused persons. They were produced at 14.55 hours. Grounds of arrest in proper form was produced before the Magistrate at 16.06 hours on the same date.

9. In **THIRUPATHI VILAS PODALWAR V. STATE OF MAHARASHTRA 2025 BHC- NAG 8275 HON’BLE APEX** Court stated that “ when the accused is legally represented through counsel and applied for bail after arrest it shows that he was aware about the grounds of arrest and unless it shown that how prejudice cause to the accused due to the non supply of the grounds of arrest, he is not entitled to be released on bail.” In the present case there is a contention for the learned defence counsel that grounds of arrest were not communicated to the detenues and relatives. It is also upheld by the **HON’BLE KERALA HIGH COURT IN NIZAR RAHMAN V. STATE OF KERALA (SUPRA)** “the requirement to inform the grounds for arrest at least within two hours of production before the magistrate as laid down Mihir Rajesh Shah is only to the accused and not to the relative. No outer time is fixed for issuing arrest intimation to a

relative. The records would show that the grounds for arrest were intimated to the relative without any considerable delay of the production of the applicants before the Magistrate. Hence I am of the view that there is substantial compliance". This court is of the view that no prejudice was caused to the petitioners/ accused persons as the same is evident from the appearance of counsel for the petitioners and from filing of vakkalath and bail application.

10. In the case before this court it is seen that vakkalath was filed at the time of production of petitioners accused before the learned Magistrate. That itself means their right to defend guaranteed under Article 22 (1) of the constitution and intention of the statute was complied with. The learned Magistrate also acknowledged from the petitioners/ accused persons that grounds of arrest were communicated to them and their relatives/friends. So this court is not entitled to grant bail on the basis of assertion raised by the learned defence counsel relating to communication of grounds of arrest.
11. Another contention raised by the learned defence counsel was property which has been destroyed by the petitioners/ accused persons is not a public property. Reproducing Section 2 (b) of the Prevention of Damage to Public property Act." public property means any property, whether immovable or movable (including put any machinery) which is owned by, or in the possession of, or under the control of -
  - i. the Central Government; or
  - ii. any State government; or
  - iii. any local authority; or
  - iv. any corporation established by, or under, a Central , Provincial or State Act or
  - v. any company as defined in Section 617 of the Companies Act, 1956 ( 1 of 1956) ; or
  - vi. any institution, concern or undertaking which the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the Central Government shall not specify, any institution, concern or undertaking under this sub-clause unless such institution, concern or undertaking is financed wholly or substantially by funds provided directly or indirectly by the Central Government or by one or more State Governments, or partly by the Central Government and partly by one or more State Governments.

12. So it is crystal clear from the definition of public property as per the Prevention of Damage to Public Property Act that vehicles not only owned by the aforesaid Government but also in the possession of the Government or officers amounts to public property. So the contention of learned defence counsel relating to public property is also not sustainable in the eyes of law.
13. Final contention raised by learned defence counsel was Section 121(1) of the Bharatiya Nyaya Sanhita will not attract in this case as the officers of Enforcement Directorate were not on duty at the time of alleged incident. This court is of the view that while considering public servants they are in duty at the time of entering the office till their exit from concerned office. In this case the officers of Enforcement Directorate conducted search at the house of leader of opposition and the alleged incident happened on the way of their return to their concerned offices. So it can be presumed that at the time of happening of the incident they were in discharge of their official duties. So contention of learned defence counsel relating to section 121(1) of the Bharatiya Nyaya Sanhita is also not sustainable.
14. While disposing bail applications court has to focus public trust in judiciary. Public witnessed the above said incident through medias, channels and became aware of the mischief caused by the alleged accused persons from newspapers, channels etc,. So this case can be treated as a rare case which created an impact on the society. Alleged victims in this case were officers of Central Government Agency ie, Enforcement Directorate. They were attacked by the protesters without any reason or

without any provocation while discharging their official duties. Granting of bail at this stage will encourage the accused persons and other protesters to commit similar acts in future. So victims in these kind of cases are to be protected. In this court's view the said attack created a consequence of fear, trauma and vulnerability to the officers of the Enforcement Directorate and also to the driver of the vehicle in which they travelled. The dangerous weapons used by the accused persons were bricks, stones and sticks. Driver of the car suffered injury to his both eyes. This court cannot close eyes towards the mental and physical stress suffered by the victims. This attack can be treated as an offence against State. Granting bail to the petitioners at this stage will have a demoralizing effect in society. This attack can be treated as an assault on institution. Intention of accused persons to cause death is easily identifiable from their acts. Said attack cannot be considered as spontaneous. So there is a strong prima facie case against the petitioners/ accused persons as the same was an organized political attack and not individual quarrel. Amount of loss occurred to the vehicles is assessed as Rs. 3,00,000/-. It is also understood that investigation is yet to be progressed. Test identification parade of the accused persons have to be conducted. Huge number of accused persons are yet to be arrested. Interest of victims and society at large has to be emphasized. So considering these reasons bail application is dismissed accordingly.

In the result, CMP is dismissed.

*(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and revised by me and pronounced in open court on 30<sup>th</sup> day of May 2026).*

**Sd/-**  
Judicial First Class Magistrate-III  
Thiruvananthapuram.