



2026:KER:54684

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

WEDNESDAY, THE 22ND DAY OF JULY 2026/31ST ASHADHA, 1948BAIL APPL. NO. 3744 OF 2026

CRIME NO.54/2026 OF EXCISE ENFORCEMENT AND ANTI NARCOTIC SPECIAL

SQUAD, ERNAKULAM, ERNAKULAM

PETITIONER/ACCUSED NO.1 (IN CUSTODY FROM 11.06.2026):

MUHASHIB

AGED 29 YEARS, SON OF SUBAIR,
VAYALIL PUTHENVEEDU HOUSE, PERAYAM DESOM,
THAZHUTHALA VILLAGE, KOLLAM TALUK, KOLLAM DISTRICT,
PIN - 691589

BY ADVS.

SRI.P.MOHAMED SABAH
SRI.LIBIN STANLEY
SMT.SAIPOOJA
SRI.SADIK ISMAYIL
SMT.R.GAYATHRI
SRI.M.MAHIN HAMZA
SHRI.ALWIN JOSEPH
SHRI.BENSON AMBROSE

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM DISTRICT,
PIN - 682031
- 2 THE EXCISE CIRCLE INSPECTOR
EXCISE ENFORCEMENT AND ANTI NARCOTIC SPECIAL SQUAD,
ERNAKULAM, KACHERIPADI, ERNAKULAM DISTRICT,
PIN - 682018



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BY ADV.

SRI.THOMAS SABU VADAKEKUT, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
22.07.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ORDER**

This application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, BNSS), seeking regular bail.

2. The applicant is the accused No.1 in Crime No.54/2026 of Excise Enforcement and Anti Narcotic Special Squad, Ernakulam District. The offences alleged are punishable under Sections 22(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').

3. The prosecution case, in short, is that, on 11.06.2026 at about 02:10 p.m., the applicant and the accused No.2 were found in possession of 6.031 grams of MDMA in front of the parking area of Hazel Gardens Lodge near metro station pillar No.C/D/3 at Ernakulam South and thereby committed the aforesaid offences.

4. I have heard Sri. P.Mohamed Sabah, the learned counsel for the applicant and Sri. Thomas Sabu Vadakekut, the learned Public Prosecutor. Perused the case



diary.

5. The learned counsel for the applicant submitted that the applicant has been in custody since 11.06.2026 and the grounds of arrest were not communicated in accordance with law at the time of his arrest. The learned Public Prosecutor on the other hand opposed the bail application and submitted that the grounds of arrest were duly communicated.

6. Though *prima facie* there are materials on record to connect the applicant with the crime, since the applicant has raised a question of absence of communication of the grounds of his arrest, let me consider the same.

7. It is now well settled that the requirement of informing a person of the grounds for arrest is a mandatory requirement of Art.22(1) of the Constitution and Section 47 of BNSS and absence of the same would render the arrest illegal (See. **Pankaj Bansal v. Union of India and Others** [(2024) 7 SCC 576], **Prabir Purkayastha v. State (NCT of Delhi)** [(2024) 8 SCC 254], **Vihaan Kumar v. State of Haryana and Others** (2025 SCC OnLine SC



269] and **Mihir Rajesh Shah v. State of Maharashtra and Another** (2025 SCC OnLine SC 2356). The Supreme Court in **Kasireddy Upender Reddy v. State of Andhra Pradesh** (2025 SCC OnLine SC 1228) has held that the grounds of arrest should not only be provided to the arrestee but also to his family members and relatives so that necessary arrangements are made to secure the release of the person arrested at the earliest possible opportunity so as to make the mandate of Art.22(1) meaningful and effective, failing which, such arrest would be rendered illegal. A learned Single Judge of this Court in **Alvin Riby v. State of Kerala** (2025 KER 67079) following **Kasireddy Upender Reddy** (supra) held that failure to communicate the grounds of arrest to the near relatives renders the arrest illegal.

8. The applicant and the accused No.2 are admittedly live-in partners. The grounds of arrest were duly communicated to the applicant in compliance of Section 47 of BNSS. However, in compliance of Section 48 of BNSS, the grounds of arrest of both the accused were communicated to the father of the accused No.2. The



definite case of the applicant is that he has no connection whatsoever with the father of the accused No.2 and they are living together without the knowledge of the father of the accused No.2. The father of the accused No.2 cannot be termed as a relative of the applicant, inasmuch as the applicant and the accused No.2 are not legally married. There is nothing in the mahazar, remand report or case diary to show that the intimation regarding the arrest of the applicant was communicated to the father of the accused No.2 as instructed by the applicant. Hence, I am of the view that there is non-compliance of Section 48 of BNSS and the applicant is entitled to be released on bail.

In the result, the application is allowed on the following conditions: -

(i) The applicant shall be released on bail on executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Magistrate/Court.

(ii) The applicant shall fully co-operate with the investigation.

(iii) The applicant shall appear before the



investigating officer between 10.00 a.m and 11.00 a.m.
every Saturday until further orders. He shall also appear
before the investigating officer as and when required.

(iv) The applicant shall not commit any
offence of a like nature while on bail.

(v) The applicant shall not attempt to contact
any of the prosecution witnesses, directly or through any
other person, or in any other way try to tamper with the
evidence or influence any witnesses or other persons
related to the investigation.

(vi) The applicant shall not leave the State of
Kerala without the permission of the trial Court.

(vii) The application, if any, for
deletion/modification of the bail conditions or cancellation
of bail on the grounds of violating the bail conditions shall
be filed at the jurisdictional court.

Sd/-

**DR. KAUSER EDAPPAGATH
JUDGE**



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APPENDIX OF BAIL APPL. NO. 3744 OF 2026

PETITIONER ANNEXURES

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| ANNEXURE 1 | TRUE COPY OF THE REMAND REPORT IN 54/2026 OF
EXCISE ENFORCEMENT AND ANTI NARCOTIC SPECIAL
SQUAD, ERNAKULAM |
| ANNEXURE 2 | TRUE COPY OF THE REMAND ORDER DATED
11.06.2026 PASSED BY THE LEARNED JFCM-II,
COURT; ERNAKULAM |
| ANNEXURE 3 | TRUE COPY OF THE NOTICE TO INFORM THE ARREST
U/S 48 OF BNSS |