

**IN THE COURT OF
THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE
THIRUVANANTHAPURAM.**

**Present: Mithun Gopi G S
Additional Chief Judicial Magistrate**

Monday the 10th day of August 2026 / 19th Sravana 1948

**Crl.MP No. 1/2026
IN
(Crime No. 95/2026)
of
(Thiruvananthapuram City Cyber Crime Police Station)**

Petitioner / Accused	T G Mohandas, 71 years, H/o Sasikala, 8/996 D, Koovalapadam, Mattancherry, Amritanandamayil Lane, Cheralai, Mattancherry, Ernakulam, Kerala. (By Adv. Sri. Shekar G Thampi)
Counter petitioner/ Complainant	State of Kerala represented by the SHO, Thiruvananthapuram City Cyber Crime Police Station in crime No. 95/2026 (By A P P)
Offences	Under Section 66 of IT Act, Section 120(o) of KP Act and Sections 79, 192, 353(1)(b) and 351(3) of the BNS.
Order	Bail application is allowed.

This application having been finally heard from 3.40 p.m to 4.10 p.m today and the Court on the same day at 4.55 p.m., delivered the following:

ORDER

Bail application filed by the accused under Section 480 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS).

2. The accused is alleged to have committed offences punishable under Section 66 of the Information Technology (Amendment) Act (in short “IT Act”), Section 120(o) of the Kerala Police Act (in short “KP Act”) and Sections 79 and 353(1)(b), 351(3) of the Bharatiya Nyaya Sanhita, 2023 (in short “BNS”).

3. **The prosecution case, in brief, is as follows:** The accused, with the intention and preparation to breach public peace and tranquility and to incite riots among the public, uploaded videos on the YouTube channel “Pathrika” on 24.07.2026 and 25.07.2026. The said videos contained statements intended to create fear and anxiety among the activists who participated in the protest held at Jantar Mantar, Delhi, thereby disrupting public peace and tranquility. The accused also propagated offensive content that insulted womanhood and violated the dignity of women and made statements through the YouTube channel that students protesting at Jantar Mantar should be shot dead, thereby causing criminal intimidation and fear among the students. By the aforesaid acts, the accused thereby committed the offences as alleged.

4. The accused was arrested and produced before this court today (10/08/2026) at 3.40 pm.

5. The copy of the bail application was served to the prosecution and the prosecution has vehemently opposed the bail application.

6. Heard the learned Assistant Public Prosecutor (APP) and the learned

Counsel for the accused appeared through video conferencing. Perused records.

7. The sole point that arises for consideration is whether the bail application is liable to be allowed or not?

6. **The point:** The learned counsel for the accused submitted that the allegations levelled against the accused are baseless. It was also contended that the allegations in the FIR are politically motivated, owing to the close association of the petitioner with the Rashtriya Swayamsevak Sangh and the Bharatiya Janata Party. It was further submitted that the de facto complainant is an Organising Committee Member of an organisation named 'Young Democrats', which, according to the learned counsel, is a branch of the Social Democratic Party of India. It was therefore contended that the entire case is politically motivated and hence, the accused is entitled to be released on bail.

7. *Per contra*, the learned APP submitted that there are several complaints in respect of the incident, numbering no fewer than 16. However, on a perusal of the prosecution records, it is seen that the complaint in the present case was forwarded by the de facto complainant through e-mail, on the basis of which the crime was registered. What is relevant for the present purpose is that the complaint was lodged by a person who is stated to be an Organising Committee Member of the said organisation. It is not discernible from the prosecution case that the complainant was present at the spot or had participated in the alleged incident at Jantar Mantar. Needless to say, any person can set the criminal law

in motion. However, there is no allegation that the complainant was himself an eyewitness to the incident or was in any manner directly affected by the remarks allegedly made by the accused. This assumes significance particularly in the context of the allegation that the accused had made certain comments against the women protesters. But the allegations regarding political rivalry are not matters that require consideration at this stage.

8. The learned counsel for the accused further argued that the only non-bailable offence alleged against the accused in this case is the offence punishable under Section 353(1)(b) of the BNS. It was further argued that, in **Satender Kumar Antil v. Central Bureau of Investigation** reported in **2026 (2) KHC 114**, the Hon'ble Apex Court reiterated the principles laid down in *Arnesh Kumar* and held that compliance with Section 35 of the BNSS is mandatory and that arrest ought to be resorted to only in exceptional circumstances, for which reasons are required to be recorded. It was therefore contended that, in the present case, no exceptional circumstance exists warranting the arrest of the accused and further, that no notice under Section 35(3) of the BNSS was issued to the accused.

9. *Per contra*, the learned APP contended that issuance of notice under Section 35(3) of the BNSS is not necessary in a case where there is a likelihood of the accused absconding. In the present case, it was submitted that the investigating officer had specifically recorded that, if notice under Section 35(3)

of the BNSS were issued to the accused, there was a possibility of the accused absconding, destroying digital evidence and influencing the witness.

10. The learned counsel for the accused however, drew the attention of this Court to the relevant portion of the remand report submitted by the investigating officer, which reads as follows:

“കേസിലെ അന്വേഷിക്കുന്നതിലേയ്ക്കായി തിരുവനന്തപുരം സിറ്റി സൈബർ ക്രൈം പോലീസ് സ്റ്റേഷനിൽ വിവരങ്ങളെപ്പറ്റി ഹാജരാക്കുന്നതിലേയ്ക്കായി Notice U/s.35 (3) BNSS പ്രകാരം നോട്ടീസ് ടി പ്രതിയ്ക്ക് നൽകിയാൽ ടിയാൻ ഒളിവിൽ പോകാനും ഡിജിറ്റൽ തെളിവുകൾ നശിപ്പിക്കാനും പരാതിക്കാരനെ സ്വാധീനിക്കാനും സാധ്യത ഉള്ളതിനാൽ ടിയാന് Notice U/s.35 (3) നൽകിയിട്ടില്ലാത്തതാകുന്നു.”

11. A perusal of the offences alleged against the accused shows that the accused has been booked for offences under Section 66 of IT Act, Section 120(o) of the KP Act and Sections 79, 192, 353(1)(b) and 351(3) of the BNS. Among the offences alleged, the only offence which is stated to be non-bailable is the offence under Section 353(1)(b) of the BNS. However, the punishment prescribed for the said offence is imprisonment for a term which may extend to three years, or with fine, or with both.

12. The Honourable Apex Court in **Satender Kumar Antil v. Central Bureau of Investigation** reported in **2026 (2) KHC 114** held as follows;

“We give our imprimatur to the views expressed by the High Court of Bombay and, as already observed by us in this order that, as a matter of course, a notice under S.35(3) of the BNSS, 2023 is to be issued to an accused or any individual concerned, qua an offence punishable with imprisonment up to 7 years and, that, as long as a person to whom a notice under S.35(3) of the BNSS, 2023 is issued has complied and continues to comply with the terms of the notice then, as per S.35(5) of the BNSS, 2023, it is not open for the police officer to arrest him unless, for reasons to be recorded, the police officer is of the opinion that

he ought to be arrested. Hence, we have no hesitation to hold that a notice under S.35(3) of the BNSS, 2023 to an accused or any individual concerned, qua an offence punishable with imprisonment up to 7 years, is the rule, while an arrest under S.35(6) read with S.35(1)(b) of the BNSS, 2023, is a clear exception.”

13. The said decision is applicable to all cases involving offences punishable with imprisonment of up to seven years, and its applicability cannot be denied or disputed by the learned APP. It is further evident from the remand report that, during the investigation with reference to the residential address of the accused, namely, 8/996 D, Cherai, Shanthi Nagar Colony Road, Cherai, Kochi Corporation, Ernakulam – 682002, the investigating officer ascertained that the accused was present at the said residence and that digital evidence allegedly relating to the commission of the offence was available at the premises. The remand report further indicates that the search of the premises was conducted while the accused was present there.

14. The investigating officer has stated that notice under Section 35(3) of the BNSS was not issued on the apprehension that the accused might abscond, destroy digital evidence or influence the complainant. However, the materials placed before the Court do not disclose any specific circumstance indicating that the accused was attempting to evade the investigation or was likely to abscond. The fact that the investigating agency was able to locate the accused at his known residential address and conduct a search there is, in the circumstances, inconsistent with such apprehension.

15. As regards the apprehension concerning the digital evidence, no specific or cogent circumstance is disclosed in the remand report to show that immediate arrest was necessary to preserve or secure such evidence. The investigating agency had already located the premises and was in a position to proceed with the investigation and secure the relevant material. Mere apprehension of destruction, tampering or manipulation of evidence, in the absence of circumstances indicating an immediate necessity for arrest, cannot by itself justify dispensing with the statutory safeguard contemplated under Section 35(3) of the BNSS. The same applies to the general apprehension of the accused influencing the complainant, for which no specific material is disclosed in the remand report.

16. On an overall consideration of the circumstances, this Court finds that the grounds stated for not issuing notice under Section 35(3) of the BNSS were not sufficient to warrant its non-issuance. The statutory requirement was therefore attracted in the present case and the failure of the investigating agency to issue the notice has not been satisfactorily justified.

17. The learned APP further argued that that the investigation is at its initial stage and that further witnesses are yet to be examined, the involvement of other accused is to be ascertained and the owner of the YouTube channel “Pathrika” is yet to be identified. It was further submitted that the custodial interrogation of the accused is necessary for recovery and collection of further

digital evidence and that, if released, there is a likelihood of the accused absconding, destroying or tampering with electronic evidence and influencing witnesses. Hence, the learned APP submitted that the custodial interrogation of the accused is necessary for the proper and effective investigation of the case.

18. But this Court is unable to appreciate as to how the custodial interrogation of the accused is necessary for any of the purposes stated by the learned APP. The mere assertion that the investigation is at an initial stage, that further witnesses are yet to be examined, that the involvement of other accused is to be ascertained, or that the owner of the YouTube channel “Pathrika” is yet to be identified, by itself, does not furnish sufficient justification for keeping the accused in judicial custody.

19. The learned counsel for the accused argued that the electronic devices allegedly connected with the offence, namely the Vivo mobile phone, Seagate hard disk, DBC modem and JTP microphone, have already been recovered from the residence of the accused pursuant to a lawful search and have been seized and produced before the Court in Form 151A. Therefore, it was contented that no further recovery or custodial interrogation of the accused is necessary for the purpose of collecting evidence. It was further submitted that the continued custody of the accused cannot be justified on the ground of recovery of digital evidence, when the relevant devices have already been secured by the investigating agency and are in the custody of the Court.

20. The learned APP argued that the accused was not cooperating with the investigation and that his custodial interrogation was therefore necessary. However, on a perusal of the remand report, it is seen that the accused had already been taken into custody, questioned by the police and that the relevant search and seizure proceedings had also been completed. The remand report further discloses that the accused was taken to the Cyber Police Station and subjected to interrogation by the investigating agency and that the material recoveries and seizure proceedings relied upon by the prosecution have already been effected. Therefore, the prosecution has not placed sufficient grounds before this Court to show that further custodial interrogation of the accused is necessary at this stage.

21. Another aspect urged by the learned counsel for the accused is that the accused is a practising lawyer, political debater and senior journalist, aged 71 years. It was further submitted that he had suffered a stroke and is suffering from serious ailments, including psoriasis and early-stage Parkinson's disease. The learned counsel further contended that the accused was taken into custody from his residence and was denied proper medical attention and that his continued detention in judicial custody would seriously endanger his life and health. It was argued that, having regard to his age and medical condition, his continued custodial detention is unwarranted. No specific submissions, however, were advanced by the learned APP with regard to the medical

condition of the accused or any material to controvert the medical concerns raised on behalf of the accused.

22. The learned APP vehemently opposed the bail application and submitted that this Court ought not to interfere at this stage. However, the issue presently before this Court concerns the alleged non-compliance with the directions issued by the Hon'ble Apex Court and this Court cannot turn a blind eye to the same. No proceedings can be permitted to continue in a manner contrary to the settled position of law, as permitting the same would amount to allowing the police authorities to act in derogation of the process of law and would result in an abuse of the process of law.

23. Moreover, the apprehensions expressed by the prosecution regarding the possibility of the accused absconding, influencing witnesses, or interfering with the investigation can be adequately addressed by imposing stringent conditions while enlarging the accused on bail. Having regard to the totality of the facts and circumstances of the case, including the non-issuance of notice under Section 35(3), the recovery of the articles, the cooperation extended by the accused with the police investigation, as well as the age and health condition of the accused, this Court is of the considered opinion that the further detention of the accused in judicial custody is not warranted at this stage.

24. Accordingly, the accused is entitled to be released on bail, subject to stringent conditions to ensure his availability during the course of the

investigation and trial, to prevent any interference with the administration of justice and to adequately safeguard the interests of the victims as well as the prosecution.

25. **Resultantly**, the Crl.MP is allowed and the accused is released on bail on the following conditions:

- a) The accused shall execute a bond for ₹50,000/- (Rupees Fifty Thousand only) each, with two solvent sureties each for the like sum.
- b) The accused shall appear before the Investigating Officer for interrogation on 11.08.2026, 12.08.2026 and 13.08.2026 between 10.00 a.m. and 1.00 p.m., without fail.
- c) The accused shall thereafter appear before the Investigating Officer every Monday between 5.00 p.m. and 6.00 p.m. for a period of two months or until the filing of the final report, whichever is earlier.
- d) The accused shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the Court or to any police officer and shall not tamper with the evidence in any manner.
- e) The accused, being a senior journalist, shall be at liberty to use digital platforms and social media in the ordinary course of his

profession and for legitimate journalistic purposes.

- f) However, he shall not use any such platform for publishing, circulating or disseminating any content relating to the alleged incident with an intention to influence, intimidate harass or cause harm to the victim or any witness, or to interfere with the investigation or the administration of justice.
- g) The accused shall not commit any offence similar to the offence alleged in the present case.
- h) In the event of violation of any of the above conditions, the prosecution shall be at liberty to seek cancellation of the bail granted to the accused in accordance with law.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court this the 10th day of August 2026.

Mithun Gopi G S,
Additional Chief Judicial Magistrate,
Thiruvananthapuram.