



2026:KER:66054

:1:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 21ST DAY OF AUGUST 2026 / 30TH SRAVANA, 1948

BAIL APPL. NO. 14864 OF 2025

CRIME NO.6/2025 OF NARCOTICS CONTROL BUREAU, KOCHI, Ernakulam

PETITIONER/ACCUSED NO.2:

ARUN K. THOMAS,
AGED 36 YEARS
S/O LATE K.J. THOMAS, 2ND FLOOR, FLAT NO. 13/103 F,
PULINATTU HOUSE, KIZHAKKEKARA,
MUVATTPUZHA., PIN - 686673

BY ADVS.
SRI.SHAIJAN C.GEORGE
SHRI.VINAI JOHN
SHRI.AJAY RAMESH

RESPONDENT/COMPLAINANT:

NARCOTIC CONTROL BUREAU,
COCHIN ZONAL UNIT, REPRESENTED BY THE SUB
INSPECTOR, NARCOTIC CONTROL BUREAU, COCHIN ZONAL
UNIT, COCHIN, PIN - 682017

BY ADVS.
SHRI.R.VINU RAJ, SPL. P. P. NARCOTICS CONTROL
BUREAU
SRI.V.JOHN SEBASTIAN RALPH, AMICUS CURIAE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.08.2026, ALONG WITH Bail Appl NO. 693/2026 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2026:KER:66054

:2:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 21ST DAY OF AUGUST 2026 / 30TH SRAVANA, 1948

BAIL APPL. NO. 693 OF 2026

CRIME NO.115/2024 OF Sulthanbathery Excise Range Office,
Wayanad

AGAINST THE ORDER DATED 28.10.2025 IN Bail Appl.
NO.11692 OF 2025 OF HIGH COURT OF KERALA

PETITIONERS:

SARFAS V.A,
AGED 25 YEARS
S/O. SALEEM, VILANGIL HOUSE, KARUVANCHAL,
THALIPARAMBU, VELLAD VILLAGE,
KANNUR DISTRICT, PIN - 670571

BY ADV SRI.P.C.MUHAMMED NOUSHIQ

RESPONDENT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031

BY ADVS.
SHRI. THOMAS SABU VADAKEKUT- PP
SRI.V.JOHN SEBASTIAN RALPH, AMICUS CURIAE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.08.2026, ALONG WITH Bail Appl.No.14864/2025 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2026:KER:66054

:3:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 21ST DAY OF AUGUST 2026 / 30TH SRAVANA, 1948

BAIL APPL. NO. 1161 OF 2026

CRIME NO.240/2024 OF Perambra Police Station, Kozhikode

AGAINST THE ORDER DATED 01.10.2024 IN Bail Appl. NO.7157
OF 2024 OF HIGH COURT OF KERALA

PETITIONER/ACCUSED NO.1:

MUJEEB RAHMAN
AGED 51 YEARS
S/O. MUHAMMED, KAVUNGAL NAMBILATH, CHERUPARAMB
HOUSE, KONDOTTY, MALAPPURAM DISTRICT, PIN - 673638

BY ADV SHRI.HASIF IQBAL K.

RESPONDENT/STATE:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031

BY ADVS.
SRI.V.JOHN SEBASTIAN RALPH, AMICUS CURIAE
SHRI. THOMAS SABU VADAKEKUT- PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.08.2026, ALONG WITH Bail Appl.No.14864/2025 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2026:KER:66054

:4:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 21ST DAY OF AUGUST 2026 / 30TH SRAVANA, 1948

BAIL APPL. NO. 1422 OF 2026

CRIME NO.1131/2025 OF Kondotty Police Station, Malappuram

AGAINST THE ORDER DATED 06.02.2026 IN Bail Appl. NO.453
OF 2026 OF HIGH COURT OF KERALA

PETITIONER/ACCUSED NO.3:

RASHAD MUHAMMED,
AGED 20 YEARS,
BARLIMMAL PARAMBA (HO), ILLATHUPADI.
AIKKARAPPADI (PO), MALAPPURAM DISTRICT, PIN - 673637

BY ADVS.
SRI.M.DEVESH
SRI.M.ANUROOP
SHRI.MURSHID ALI M.
SMT.JYOTHIS MARY
SMT.S.K.SREELAKSHMY
SHRI.AKSHAY JOY

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF
KERALA, ERNAMKULAM, PIN - 682031

BY ADVS.
SRI.V.JOHN SEBASTIAN RALPH, AMICUS CURIAE
SHRI. THOMAS SABU VADAKEKUT- PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.08.2026, ALONG WITH Bail Appl.No.14864/2025 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2026:KER:66054

:5:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 21ST DAY OF AUGUST 2026 / 30TH SRAVANA, 1948

BAIL APPL. NO. 2601 OF 2026

CRIME NO.279/2026 OF Vadakkekad Police Station, Thrissur

AGAINST THE ORDER DATED 02.05.2026 IN CRMP NO.5 OF 2026
OF PRINCIPAL SESSIONS COURT, THRISSUR

PETITIONER/2ND ACCUSED:

ANEESH T. V,
AGED 38 YEARS
S/O VASUDEVAN, THEEYATH HOUSE, PONGANAMKADU DESOM,
KURIACHIRA, THRISSUR, KERALA, PIN - 680006

BY ADVS.
SHRI.SARATH BABU KOTTAKKAL
SHRI.SEBASTIN

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031

BY ADVS.
SRI.V.JOHN SEBASTIAN RALPH, AMICUS CURIAE
SHRI. THOMAS SABU VADAKEKUT- PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.08.2026, ALONG WITH Bail Appl.No.14864/2025 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2026:KER:66054

:6:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 21ST DAY OF AUGUST 2026 / 30TH SRAVANA, 1948

BAIL APPL. NO. 2852 OF 2026

CRIME NO.26/2026 OF Koyilandy Police Station, Kozhikode

PETITIONER/ACCUSED:

MOHAMMED ASHIL P.K.,
AGED 25 YEARS
S/O SALEEM N.P.K., PONGOTTUPARAMB (H),
NAGATHUMPADAM, OLAVANNA P.O., KOZHIKODE, PIN -
673316

BY ADVS.
SHRI.K.K.SUBEESH
SMT.SRADHA MOHAN

RESPONDENT/STATE:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031

BY ADVS.
SRI.V.JOHN SEBASTIAN RALPH, AMICUS CURIAE
SHRI. THOMAS SABU VADAKEKUT- PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.08.2026, ALONG WITH Bail Appl.No.14864/2025 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2026:KER:66054

:7:

"C.R."

ORDER

[Bail Appl. Nos.14864/2025, 693/2026, 1161/2026,
1422/2026, 2601/2026, 2852/2026]

The applicants in this batch of bail applications seek regular bail, primarily invoking the alleged infraction of Article 22(2) of the Constitution of India and Section 58 (57 of Cr.P.C.) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, BNSS).

Introductory Background

2. While the applicants in BA No.14864/25, BA No. 693/26, BA No. 1422/26, BA No.2601/26, and BA No.2852/26 stand accused of offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act'), the applicant in BA No.1161/26 faces prosecution under Sections 364, 354B, 354A(2),376(2)(j), 302, 392, 394, 118 and 201 of the Indian Penal Code, 1860. Their principal contention is that they were subjected to detention well before the formal recording of arrest and were produced before the Magistrate beyond twenty-four hours from the time of such detention, though within twenty-four hours of the recorded arrest, thereby infringing the constitutional and statutory safeguards guaranteed to them. Reliance was placed heavily on the recent decision of this Court in ***Biswajit Mandal v. Inspector, Narcotic Control Bureau*** [2025 (5) KHC 361], wherein it was held that the



2026:KER:66054

:8:
twenty-four hour period for production before the Magistrate commences not from the time of formal arrest but from the point at which the accused was effectively detained or his liberty curtailed. On the strength of the said dictum, it is urged that since the applicants remained in custody beyond the permissible twenty-four hour period, they are entitled to bail. Per contra, the prosecution contended that the principle laid down in ***Biswajit Mandal*** (supra) cannot be mechanically extended to every instance of pre-arrest detention, inasmuch as detention in custody without arrest is permissible under law. It is submitted that the applicants' detention prior to the recording of arrest was in accordance with procedure established by law and cannot be equated with the 'illegal detention' found on facts in ***Biswajit Mandal*** (supra).

3. Considering the importance of the issue involved, I have appointed Sri. John S. Ralph as *Amicus Curiae*. I have heard Sri.Shaijan C.George, Sri.P.C.Muhammed Noushiq, Sri.Hasif Iqbal, Sri.M.Devesh, Sri.Sarath Babu Kottakkal and Sri.K.K.Subeeesh the learned counsel for the applicants, Sri.Thomas Sabu Vadakekut, the learned Public Prosecutor, Sri.R.Vinu Raj, the learned Special Public Prosecutor for Narcotic Control Bureau and Sri.John S.Ralph, the learned *Amicus Curiae*.



2026:KER:66054

:9:

Applicants' contentions

4. The learned counsel for the applicants submitted that in all the crimes, the applicants were produced beyond twenty-four hours of their actual detention, in violation of Article 22(2) of the Constitution, rendering their arrest illegal. According to the counsel, the moment personal liberty and freedom of movement are restrained by placing a person in the custody of an authority vested with the power of arrest, such restraint must be deemed an arrest within the meaning of Section 35 of the BNSS. Consequently, production before the Magistrate must follow within twenty-four hours from the time of such detention. It was urged that physical custody marks the commencement of the constitutional clock, and any investigative use of the pre-production period renders the detention unlawful. It was further contended that the applicants were in actual physical custody of the police much prior to the official recording of arrest.

Prosecutors' stand

5. The learned Public Prosecutor, on the other hand, submitted that the right under Article 22(2) arises only in cases of illegal detention, which was not the situation here. They argued that mere custody for purposes of enquiry, interrogation or investigation, when undertaken in accordance with law, does not



2026:KER:66054

:10:

amount to arrest, even though it involves restraint of the person concerned.

Amicus Curiae's Thoughts

6. The learned Amicus Curiae made the following submissions:-

- Arrest is a prerequisite for detention when it comes to an offence. The requirement of arrest before detention ensures that the personal liberty of an individual is not infringed arbitrarily and that the subsequent detention has a statutory basis.
- The law requires that deprivation of liberty either occur through formal arrest or via a statutory procedure, thereby maintaining accountability, transparency and compliance with Articles 21 and 22 of the Constitution. Any deviation from this principle renders the detention unlawful and exposes the authorities to judicial scrutiny.
- A conjoint reading of Articles 21 and 22 of the Constitution and Sections 57 and 167 of Cr.P.C operates as a substantive check on executive power by ensuring that prolonged custody is legitimised only through a judicial order. It reinforces the principle that deprivation of personal liberty must at every stage be backed by



2026:KER:66054

:11:

authority of law and supervised by an independent judicial forum, thereby preserving the constitutional balance between effective investigation and individual freedom.

- Detention, in the contemplation of law, must either take the form of a formal arrest or be expressly sanctioned by statutory provision. Informal or *ad hoc* custody arrangements, devised to circumvent constitutional and statutory safeguards, are impermissible.
- Since detention entails an infraction of Article 21, it is the fact of effective detention that furnishes the basis for reckoning the twenty-four hour rule, even where arrest is not formally recorded.
- An attempt to postpone formal arrest while continuing to restrain liberty defeats the constitutional mandate of Article 22(2) and the statutory requirements of Sections 58 and 187 of BNSS (57 and 167 Cr.P.C), reducing the safeguard to a mere illusion.
- Temporary restraint during search and seizure under Sections 42, 43 and 50 of the NDPS Act, or custody pursuant to summons issued under Section 179(1) of the BNSS, Section 35(3) of the BNSS, Section 107 of the



2026:KER:66054

:12:

Customs Act, Section 108 of the Customs Act, or Section 50 of the PMLA, qualifies as procedure established by law. Such investigative or incidental detention does not transgress constitutional guarantees, for it is sanctioned by statute and circumscribed by legal process

- Detention prior to arrest is permissible only where explicitly authorised by statute. In all other cases, any deprivation of liberty before formal arrest must be treated as part of the detention period; the statutory timeline for judicial oversight begins at that point.

Statutory and Constitutional Framework of Arrest and Detention

7. Section 35 of BNSS (41 of Cr.P.C.) empowers a police officer to arrest any person without a Magistrate's order or warrant and sets out the parameters for exercising that power. An accused arrested without a warrant by the police has a constitutional right under Article 22(2) of the Constitution of India and Section 58 of the BNSS (57 Cr.P.C.) to be produced before the Magistrate without unnecessary delay and, in no circumstances, beyond twenty-four hours, excluding the time necessary for the journey. Bypassing the twenty-four hour safeguard or extending custody without judicial oversight strikes at the very heart of personal liberty protected under Article 22(2).



2026:KER:66054

:13:

8. The Supreme Court has unwaveringly affirmed that the twenty-four hours production mandate under Article 22(2) is an absolute constitutional safeguard, immune to dilution, and designed to check executive excess and police arbitrariness. In *Khatri v. State of Bihar* [(1981) 1 SCC 627], the Court underscored that the requirement of producing an arrested person before a Magistrate within 24 hours is not a matter of convenience but a binding constitutional command. In *D.K. Basu v. State of West Bengal* [(1997) 1 SCC 416], confronted with rampant custodial violence, the Court crystallised this mandate into a strict eleven-point protocol for law enforcement, declaring that the twenty-four hours rule—fortified by statutory provisions—exists solely to prevent unlawful detention and custodial abuse. In *Central Bureau of Investigation, Special Investigation Cell – 1, New Delhi v. Anupam J. Kulkarni* [(1992) 3 SCC 141], the Court clarified that the police possess no independent authority to detain beyond the initial hours; further custody lies exclusively within judicial discretion. In *Arnesh Kumar v. State of Bihar* [(2014) 8 SCC 273], the Court cautioned against “mechanical remand,” directing Magistrates to apply their judicial mind, scrutinise the arrest checklist, and ensure that detention is legally justified rather than a perfunctory exercise. Most recently, in *Directorate of Enforcement v. Subhash Sharma* [2025 KLT OnLine



2026:KER:66054

:14:

1436 (SC)], interpreting Article 22(2) of the Constitution of India and Section 58 of BNSS (57 Cr.P.C.) it was held that non-production of the accused before the Magistrate within twenty-four hours of arrest is illegal, vitiates the arrest, and infringes fundamental rights under Articles 21 and 22(2). It was further held that once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under Articles 21 and 22 of the Constitution have been violated during or after arrest, it is the duty of the Court dealing with the bail application to release the accused on bail.

9. These judgments reaffirm the constitutional promise under Article 22(2) and the legislative command under Section 58 of BNSS (57 of Cr.P.C.) that the production of the accused before the Magistrate within twenty-four hours of arrest is not a procedural nicety but a constitutional necessity, and any infraction of the same must result in the release of the accused on bail forthwith. Yet the crucial question is: at what point does the twenty-four-hour period for producing an accused before the Magistrate begin to run?

Facts of Individual Bail Applications

10. Before examining the question, it is apposite to set out, in brief, the facts of each bail application.

10 (i). BA No.14864/2025 pertains to OR No.6/2025 of



2026:KER:66054

:15:

Narcotic Control Bureau, Cochin Zonal Unit, which was registered for the offences under Sections 8(c) r/w 22(c), 23(c), 24, 27A and 29 of the NDPS Act. The applicant is the accused No.2 The prosecution case is that on 29/6/2025, the accused No.1 was found in possession of 8.85 grams of LSD and 131.66 grams of Ketamine at his residence. In the voluntary statement given by the accused No. 1, he admitted his involvement in procuring psychotropic drugs from various sources and supplying the same to various dark net users throughout India. He stated that the applicant procured the seized drugs for him. Thereafter, the NCB team searched the house of the applicant and seized various incriminating materials and technical evidence leading to the conclusion that they were all related to the dark net drug vendor named Ketamelon. In addition, the applicant admitted his involvement in procuring psychotropic substances jointly with the accused No.1 on multiple occasions. According to the applicant, he was effectively detained since 9.00 am on 29/6/2025 at his residence and was produced before the Magistrate at 8.28 pm on 30/6/2025, which was beyond twenty-four hours time frame prescribed in Article 22(2) of the Constitution of India and Section 58 of the BNSS.

10(ii). BA No.693/2026 pertains to Crime No. 115/2024 of Sultan Bathery Excise Range Office, Wayanad, which was registered



2026:KER:66054

:16:

for the offence under Section 22(c) of the NDPS Act. The applicant is the sole accused. The prosecution case is that on 20/8/2024 at about 12.55 p.m., the applicant was found in possession of 60.435 grams of Methamphetamine while transporting the same in a private bus in front of Muthanga Excise Check Post, Sulthan Bathery. The applicant was arrested at 2.15 pm on 20/8/2024. He was produced before the Magistrate on 21/8/2024 at 2.15 p.m which, according to him was beyond 24 hours from his actual detention.

10(iii). BA No.1422/2026 pertains to Crime No.1131/2025 of Kondotty Police Station, Malappuram. It was registered for the offences under Sections 22(c) and 29 of the NDPS Act. The applicant is the accused No. 3. The prosecution case in short is that on 5/10/2025, at 6.30 p.m, the applicant along with the remaining accused was found in possession of 152.64 grams of MDMA and 0.65 grams of Ecstasy at a place called Kannamvettikavu, Ambalakkandy while they were sitting inside two cars with Regn.Nos.KL84-C-7458 and KL84-D-3342. The applicant was detained at 6.30 pm on 5/10/2025. His formal arrest was recorded at 10.10 pm the same day. He was produced before the Magistrate on 6/10/2025 during court hours.

10(iv). BA No.2601/2026 pertains to Crime No.279/2026



2026:KER:66054

:17:

of Vadakkekad Police Station, Thrissur, which was registered for the offence under Section 20(b)(ii)(C) of the NDPS Act. The applicant is the accused No.2. The prosecution case is that on 22/3/2026 at 1.05 hours, the applicant along with the accused No.1 was found in possession of 67.429 kilograms of Ganja kept in the secret chamber behind the driver's seat of the goods vehicle bearing Regn.No.KL48-V-3501 driven by the applicant. The applicant was detained at 1.05 hours on 22/3/2026. His arrest was recorded on 23/3/2026 at 4.00 p.m., and he was produced before the Magistrate on 24/3/2026 at 4.00 p.m.

10(v). BA No.2852/2026 pertains to Crime No.26/2026 of Koyilandy Police Station, Kozhikode, which was registered for the offence under Section 22(c) of the NDPS Act. The applicant is the sole accused. The prosecution case in short is that on 7/1/2026 at 7.00 p.m., the applicant was found in possession of 12.420 grams of MDMA. Thereafter, based on his disclosure statement, 83.94 grams of MDMA were recovered from his residential premises at Olavanna on the intervening night of 07-08/01/2026. According to the applicant, he was in custody before 18.00 hours on 7/1/2026, but his arrest was recorded only at 8.15 pm the same day, and he was produced before the Magistrate at 6.30 p.m on 8/1/2026.

10(vi). BA No.1161/2026 pertains to Crime No.240/2024 of



2026:KER:66054

:18:

Perambra Police Station, Kozhikode, registered for the offences punishable under Sections 364, 354B, 354, 354A(2), 376(2)(j), 302 and 394 of the IPC. The applicant is the accused No.1. The prosecution case is that on 11/3/2024 at 9.35 a.m, the applicant gave the victim a lift on his motorbike and subsequently pushed her into a canal at Valoor, where he allegedly committed rape and murder before robbing her gold ornaments. According to the applicant, he was taken into custody by the police on 16/3/2024 and produced before the Magistrate only on the next day at 7.45 pm, which is beyond twenty-four hours.

Constitutional Safeguards on Liberty and Statutory Scheme of Detention and Investigation

11. Personal liberty is among the most cherished guarantees of the Indian Constitution. Article 21 of the Constitution ordains that no person shall be deprived of liberty save by procedure established by law. In close sequence, Article 22 commands that any person arrested and detained in custody must be produced before the nearest Magistrate within twenty-four hours of arrest. The only exclusion permitted from this reckoning is 'the time necessary for going from the place of arrest to the Court of the Magistrate'. The constitutional mandate admits of only two exceptions: where the person arrested is an 'enemy alien', or where



2026:KER:66054

:19:

the arrest is under a law providing for preventive detention. In all other cases, the Constitution peremptorily prohibits detention beyond twenty-four hours without the authority of the Magistrate.

12. The right to be produced before a Magistrate within twenty-four hours of arrest first found statutory expression in Section 61 of the Code of Criminal Procedure, 1898. It was later embodied in Section 57 of the Code of Criminal Procedure, 1973, and now stands codified in Section 58 of the BNSS. The essence of this safeguard lies in the principle that any curtailment of liberty beyond a reasonable period must bear the imprimatur of judicial sanction. It underscores that the legitimacy of detention flows not merely from police authority but from independent judicial oversight, thereby serving as a vital check against arbitrary arrest and prolonged custody. Constitutional protection was superadded through Article 22 after extensive debates in the Constituent Assembly (1947–1949), reflecting a deliberate choice to elevate these safeguards from the realm of ordinary legislation to the status of fundamental rights. By doing so, the framers insulated them from legislative dilution and executive excess, ensuring that judicial scrutiny remains an indispensable component of any lawful deprivation of liberty. This constitutional design embodies a careful balance—between procedural flexibility on the one hand and the



2026:KER:66054

:20:

inviolability of personal liberty on the other.

13. The statutory framework governing investigation and detention is embodied in Section 187 of BNSS (167 of Cr.P.C.). This provision constitutes the backbone of post-arrest judicial supervision and operates as a statutory extension of the constitutional mandate. Section 187 of BNSS (Section 167 of Cr.P.C.) prescribes the procedure to be followed when investigation cannot be completed within the twenty-four hours fixed by Section 58 of BNSS (57 of Cr.P.C). It is thus supplementary to Section 58 of BNSS (57 of Cr.P.C). Where the investigating officer foresees that the investigation cannot be concluded within twenty-four hours of arrest, he is bound by law to discharge two requisites: first, to transmit a copy of the case diary to the nearest Judicial Magistrate; and second, to forward the accused to such Magistrate simultaneously. The only circumstance in which the officer may dispense with producing the arrested person before the Magistrate is when he is satisfied that there are no grounds to believe the information or accusation to be well-founded. In such a case, the accused must be released from custody, as mandated by Section 189 of BNSS (169 of Cr.P.C).

14. Section 187 of BNSS (167 of Cr.P.C.) contemplates a clear statutory sequence: arrest, detention for a maximum of twenty-four



2026:KER:66054

:21:

hours under Section 58 of BNSS (57 of Cr.P.C), and, where investigation cannot be completed within that period, compulsory production of the accused before a Judicial Magistrate along with the contemporaneous case diary and case records. The Magistrate's role in this process is not ministerial but adjudicatory, requiring the application of judicial mind to the necessity of further detention, the legality of the arrest, and the progress of the investigation.

Arrest and Custody - Distinction

15. Article 22(2) of the Constitution, read with Sections 58 and 187 of BNSS (57 and 167 of Cr.P.C.), employs the expressions 'arrest' and 'detain in custody'. For Article 22(2) to be invoked, two conditions must co-exist: (i) the person must have been arrested, and (ii) he must have been detained in custody. The constitutional text deliberately uses the conjunction 'and' in Article 22(2), in contrast to Article 22(3), which employs the disjunctive 'or'. This deliberate choice signifies that Article 22(2) contemplates detention only when preceded by arrest, and that such detention must conform to the statutory framework under Sections 58 and 187 of BNSS (57 and 167 of Cr.P.C.).

16. Arrest is the formal act of taking a person into police custody, though custody may arise in other ways as well. The expressions 'arrest' and 'detention in custody' are not synonymous.



2026:KER:66054

:22:

Ordinarily, arrest is a prerequisite for detention in connection with an offence, for detention under the criminal process is not an independent action but must be preceded by arrest. Yet, detention in custody is not intrinsically linked to the act of arrest. In every arrest, there is custody, but custody does not invariably amount to arrest. Custody may, in certain circumstances, ripen into arrest, but not in all cases. The law recognises situations where a person may be detained without the procedural formality of arrest. Thus, detention in custody can occur independently of arrest, expressly authorising law enforcement to hold a person without first completing the formal act of arrest.

17. Article 21 of the Constitution guarantees the right to life and personal liberty, which the Supreme Court has construed to include protection against arbitrary detention [*D.K. Basu* (supra)]. Detention following arrest constitutes 'procedure established by law' within the meaning of Article 21. The expression 'procedure established by law' denotes a legal process that is known, accessible, and duly sanctioned by statute. Detention after arrest satisfies this requirement, being carried out within the framework of codified criminal procedure, with explicit provisions governing arrest, the recording of reasons, and reporting to the competent authorities. At the same time, various statutes, including the



2026:KER:66054

:23:

BNSS/Cr.P.C., recognise exceptional circumstances where detention may be authorised without a formal arrest, pursuant to procedures established by law as enumerated hereunder:

Exceptional Situations of Detention Without Arrest

18. Section 179(1) of BNSS (160(1) of Cr.P.C) empowers the investigating officer to require the attendance of any person acquainted with the facts of the case. The expression “any person” is of wide amplitude and, as recognised in *Nandini Satpathy v. P.L. Dani* (AIR 1978 SC 1025), extends even to a suspect or potential accused. The statutory mandate is clear: once such a requisition is issued, the person is bound to attend before the investigating officer. Yet, compliance with such summons does not *ipso facto* place the individual in police custody amounting to arrest. It is not the law that mere attendance under Section 179 (1) of BNSS (160(1) Cr.P.C) constitutes arrest; voluntary appearance pursuant to summons remains distinct from custodial deprivation of liberty.

18(a). Section 35 of BNSS (Section 41-A of Cr.P.C) delineates the primary “procedure established by law” for the exercise of arrest powers. While it authorises arrest without warrant in cognizable cases, it simultaneously imposes a critical safeguard: the necessity of reasonable suspicion or credible information. The existence of the power to arrest is one thing; the justification for its



2026:KER:66054

:24:

exercise is quite another. As emphasised in *Joginder Kumar v. State of U.P.* [(1994) 4 SCC 260], no arrest can be made merely because it is lawful to do so; the officer must demonstrate that such arrest is necessary and justified. Routine arrests on bare allegations are impermissible. Section 35(3) of BNSS (41A of Cr.P.C) requires police to issue a notice of appearance to accused persons instead of arresting them when arrest is not necessary. Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice. Under Section 35(5) of BNSS (41(A) of Cr.P.C), a person who obeys and continues to obey the notice shall not be arrested in respect of the offence, save where reasons are recorded by the officer justifying arrest.

18(b). Accordingly, if a person appears before the police in compliance with a summons under Section 179 of BNSS or a notice under Section 35(3) of BNSS, and is subsequently arrested under Section 35(5) of BNSS, it cannot be contended that he was in illegal custody during the interregnum. The constitutional safeguard under Article 22(2) and the statutory mandate under Section 58 of BNSS (Section 57 Cr.P.C) are attracted only upon arrest. The twenty-four hour reckoning begins from the moment of arrest, not from the period of voluntary attendance. Any attempt to conflate attendance with arrest would dilute the distinction between investigative



2026:KER:66054

:25:

cooperation and custodial restraint, a distinction which the Constitution and the Code scrupulously preserve.

19. Section 67 of the NDPS Act confers upon authorised officers the power to collect facts and materials during what the statute denominates as an “enquiry.” The provision is essentially a fact-finding instrument, designed to enable the officer to ascertain the ingredients of an offence before the stage of arrest or charge. Sub-section (a) allows an officer to call for information from any person. This establishes that the officer is in a state of subjective enquiry. They are not yet at the state of reasonable belief required for arrest; instead, they are in the process of building/ascertaining belief or transformation. This justifies the detention of a suspect at the initial point of contact, as the officer is exercising a statutory right to be “satisfied” of the facts before taking the drastic step of deprivation of liberty through arrest. Sub-sections (b) and (c) extend this enquiry by authorising the officer to require the production of documents or articles and to examine persons acquainted with the facts. The statutory design thus distinguishes between “detention” and “arrest.” When a person is examined under sub-section (c), he is under a legal obligation to cooperate with the enquiry. While his liberty may be incidentally regulated during such examination, he does not *ipso facto* become an



2026:KER:66054

:26:

“accused” under arrest. The enquiry creates a buffer-zone wherein the individual is under the authority of the enforcement agency for investigative purposes, but the constitutional safeguard of Article 22(2) and Section 58 of BNSS (57 Cr.P.C)—the twenty-four hour countdown—remains in abeyance until a formal custodial arrest is effected. Hence, Section 67 of the NDPS Act operates as a statutory bridge between mere suspicion and formal accusation. The element of arrest ripens only upon the completion of enquiry and the discovery of incriminating material. Until then, the officer’s authority is confined to fact-gathering, and the deprivation of liberty through arrest must await the crystallisation of reasonable belief founded upon such enquiry.

20. Section 42 of the NDPS Act deals with the power of entry, search of any building, conveyance or place, seizure and arrest without warrant or authorisation. Of relevance in the present context is Section 42(d) which says “detain and search”, and if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under the Act. Section 43 deals with the power of seizure and arrest in a public place. Here also, the section uses the expression “detain and search any person”.....under the Act, and if such person has any, arrest him and any other person in his company. Thus, both Sections 42



2026:KER:66054

:27:

and 43 preserve a doctrinal distinction between investigative detention and custodial arrest. It is significant to note that “detention for the purpose of search” is distinct and different from the “arrest and detention in custody” that forms the underpinning of Art.22(2) of the Constitution. Under the scheme of the NDPS Act, “detain and search” is only temporary restraint and does not involve infraction of personal liberty.

20(a). The Supreme Court in *Najmunisha v. State of Gujarat* (2024 SCC OnLine SC 520) has held that the statutory provisions conferring authorities with the power to search and seize are a mere temporary interference with the right of the accused as they stand well regulated by reasonable restrictions emanating from the statutory provisions themselves and such a power cannot be considered as a violation of any fundamental rights of the person concerned. Consistent with the jurisprudence that a search and seizure procedure does not violate any fundamental rights, the restraint on a person in the event of a search under the circumstances indicated in the Act is therefore not an infraction of any fundamental right.

20(b). In the context of Section 42 of the NDPS Act, the arrest contemplated therein is triggered on the satisfaction or on the threshold of “reason to believe” and not on the mere finding of



2026:KER:66054

:28:

the contraband. In the context of Section 43(b) of the NDPS Act, i.e., the search in a public place, it is triggered on the finding itself failing which the threshold does not reach. In either case, it is to be noticed that the detention for the purpose of search following the statutory procedure does not amount to detention in custody following an arrest or effective detention.

20(c). Whether the search and seizure procedure has been deliberately or unduly delayed and whether such delay would have consequences is another matter. However, as a general proposition, the arrest and consequently the twenty-four hour rule for the purpose of Art.22(2) commences only from the completion of the “search and seizure” that may lead to the arrest and detention in custody of the person. This is so because there is no element of detention in custody in the context of Art.22(2) amid a search and seizure and it is only when the arrest and detention in custody occurs that the twenty-four hour rule gets attracted. The constitutional reckoning of time begins only from arrest, not from antecedent detention during search or enquiry.

21. Rule 3 of the Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022 (for short, NDPS Disposal Rules) prescribes the procedure for classification, weighing, packaging and numbering of seized



2026:KER:66054

:29:

narcotic drugs, psychotropic substances and controlled substances. Sub-rule (4) mandates that these processes shall be carried out in the presence of the search witnesses and the person from whose possession the contraband was recovered, with a specific recital to that effect in the *panchnama* drawn at the place of seizure. Sub-rule (5) further requires that a detailed inventory of the packages, containers, conveyances and other seized articles be prepared and appended to the *panchnama*.

21(a). The statutory scheme thus accords due sanctity to the disposal process, which was earlier regulated only by executive Standing Orders. The Rule integrates the acts of classification, weighing, packaging and numbering into the seizure procedure itself, thereby making them part of the continuum of search and seizure. In consequence, the time consumed in implementing these safeguards is statutorily absorbed into the investigative stage. Such restraint or detention during seizure does not *ipso facto* amount to arrest. Accordingly, the period taken for compliance with Rule 3—being incidental to seizure and essential for evidentiary integrity—stands outside the ambit of the twenty-four hour mandate under Article 22 of the Constitution. The constitutional reckoning of time commences only upon formal arrest, not during antecedent detention necessitated by statutory procedures of seizure and



2026:KER:66054

:30:

inventory.

22. Section 50 of the NDPS Act deals with conditions under which a search of a person shall be conducted. It ordains that when an empowered officer proposes to search the person of a suspect, such individual must be apprised of the right to be searched before a Gazetted Officer or a Magistrate. In effectuating this statutory mandate, the officer may necessarily detain the suspect until the choice is exercised and the search duly conducted. Such detention, however, is investigative in character. It is a procedural restraint designed to secure compliance with the statutory safeguard, and does not *ipso facto* amount to arrest. Arrest occurs only when liberty is formally curtailed after incriminating material is found and custody is imposed. It is only at that stage that the constitutional and statutory guarantees of production before a Magistrate within twenty-four hours under Article 22(2) of the Constitution and Section 58 of BNSS (57 of Cr.P.C) are attracted.

23. Section 50 of the Prevention of Money Laundering Act, 2002 (PMLA) provides an essential parallel to Section 67 of the NDPS Act by granting powers to the investigation authorities similar to those of a civil court. Under this provision, officers of the Enforcement Directorate are empowered to summon any person whose attendance is considered necessary to give evidence or



2026:KER:66054

:31:

produce records. Persons summoned are legally bound to attend, give evidence and produce the required records. The appearance of a suspect in response to such summons is a statutory compulsion, but it does not *ipso facto* amount to detention or arrest. The process is investigative in nature, akin to examination under Section 179(1) of BNSS (160(1) of Cr.P.C), and is directed towards fact-finding rather than deprivation of liberty. Arrest under the PMLA is separately provided for under Section 19, which requires the authorised officer to record “reason to believe” that the person is guilty of an offence under the Act, and mandates communication of grounds of arrest and production before a Magistrate within twenty-four hours. It is only upon invocation of Section 19 that the constitutional safeguards under Article 22(2) are attracted.

24. Sections 107 and 108 of the Customs Act, 1962 give power to Customs Officers to summon any person for an enquiry under the Act. Section 107 empowers the officer to call for information, while Section 108 authorises the summoning of any person to give evidence or produce documents. Those provisions do not contemplate immediate arrest of a person but only contemplate surrendering him to the custody of the customs officer, which could subsequently lead to arrest. Detention under Sections 107 or 108 is investigative in nature; it is a procedural restraint incidental to



2026:KER:66054

:32:

inquiry, not a substantive deprivation of liberty. An arrest arises only when an officer formally restrains liberty under Section 104. The twenty-four hour reckoning under Article 22(2) begins only upon arrest, not upon appearance in response to summons.

25. Taken together, these provisions delineate a graduated spectrum of interaction between enforcement authorities and individuals—ranging from mere enquiry or information gathering to examination upon summons and finally formal arrest followed by detention. Each stage is hedged by statutory procedure, constitutional safeguards, and the principle of proportionality, thereby ensuring that any restraint upon personal liberty is justified, documented, and effected strictly in accordance with the ‘procedure established by law’ under Article 21. The distinction between investigative detention for purposes of enquiry and custodial arrest is critical: the former permits temporary restraint under statutory authority, while the latter alone attracts the full panoply of custodial safeguards, including the commencement of the twenty-four hour reckoning for production before a Magistrate. These statutory schemes underscore the legislature’s careful balance between investigational necessity and the protection of fundamental rights. Compliance with prescribed procedure is the very essence of Article 21; any restraint imposed dehors statutory



2026:KER:66054

:33:
authority or without adherence to procedural safeguards degenerates into illegal detention.

Findings and Conclusions

26. The upshot of the above discussion is that though the statutory and constitutional period of twenty-four hours to produce an accused before a Magistrate commences from the time the accused was effectively detained or his liberty was curtailed, without the sanction of law, as held in *Biswajit Mandal* (supra), it cannot be said to invariably begin from the moment a person is detained in all cases. Pre-arrest detention is permissible where explicitly authorised by statute—such as under Sections 179(1) and 35(3) of BNSS (160(1) and 41-A of Cr.P.C), Sections 67, 42, 43 and 50 of the NDPS Act, Rule 3 of the NDPS Disposal Rules, Section 50 of the PMLA, or Sections 107 and 108 of the Customs Act—which provide a clear procedural framework for enquiry or limited restraint of liberty. In such cases, the reckoning of the twenty-four hours begins only upon formal arrest. In all other circumstances, any deprivation of liberty prior to arrest must be treated as part of the detention period, and the statutory timeline for judicial oversight is triggered at that point. This understanding, evolved through judicial precedents, ensures uniform compliance with procedural safeguards, prevents arbitrary delay, and upholds the constitutional



2026:KER:66054

:34:
protection of personal liberty, while permitting investigatory authorities to act within the bounds of law where specific statutory provisions allow pre-arrest detention for enquiry. It preserves the equilibrium between the necessity of effective investigation and the prohibition against arbitrary or wanton restraint of liberty. Whether a person has been subjected to illegal detention prior to the formal recording of arrest is a matter to be carefully assessed in the light of the circumstances disclosed in each case.

27. I shall now consider each bail application on its merits.

(i). **BA No.693/2026:-** The prosecution case is that on 20/08/2024 at 12.55 p.m., excise officials intercepted the bus in which the applicant was travelling and, upon examination of the bag in his possession, recovered and seized 60.435 grams of Methamphetamine. The search was conducted in compliance with Section 43(1) of the NDPS Act, and the applicant was detained in terms of Section 43(1)(b). After completing the statutory formalities, a mahazar was prepared at 2.30 p.m., and the arrest was formally recorded at 3.15 p.m. The records further disclose that the applicant was produced before the Magistrate at 1.55 p.m. on 21/08/2024, and was remanded to judicial custody at 3.15 p.m. the same day. The interval of one hour and twenty minutes between detention and arrest was thus in accordance with the procedure



2026:KER:66054

:35:

established by law under Section 43 of the NDPS Act. Consequently, the reckoning of the twenty-four hour period mandated by Article 22(2) of the Constitution commenced only at 3.15 p.m. The applicant was produced before the Magistrate well within the prescribed period, namely at 1.55 p.m. on 21/08/2024. There is, therefore, no infraction of Article 22(2) or Section 58 of the BNSS. It is also pertinent to note that Annexure A6 reveals that the very same plea had been raised by the applicant in an earlier bail application before this Court, which stood rejected.

(ii). **BA No.1422/2026:** The contraband was seized both from the vehicles in which the applicant and the co-accused were travelling, and from the body of accused Nos.1 to 4. Acting on prior information, the detecting officer intercepted and detained the applicant at 6.30 p.m. on 05/10/2025, following the statutory formalities under Section 42 of the NDPS Act. The arrest was formally recorded at 10.10 p.m. the same day. In the interregnum, the vehicles were searched, and the contraband was recovered in compliance with Section 42, and the personal search of the accused was conducted in terms of Section 50. Only thereafter was the arrest recorded. The period between detention and arrest was thus in accordance with the procedure established by law under Sections 42 and 50 of the NDPS Act.



2026:KER:66054

:36:

(ii)(a). Though the applicant contends that his production was effected beyond twenty-four hours of detention, he has not specified the exact time of production. Annexures A1 to A5 filed along with the bail application clearly establish that the applicant was produced before the Magistrate during regular court hours. Since the arrest was effected at 10.10 p.m. on 05/10/2025 and production took place on the following day between 10 a.m. and 5 p.m., the production was well within twenty-four hours of arrest. There is, therefore, no violation of Article 22(2) of the Constitution or Section 58 of the BNSS.

(iii). **BA No.2852/2026:** The detecting officer, on receiving prior information at 6.00 p.m. on 07/01/2026, complied with the statutory formalities under Section 42 of the NDPS Act and, accompanied by a police party, proceeded to the scene at 6.25 p.m. The applicant, who was standing on the road margin, was intercepted at 7.00 p.m. In compliance with Section 50, the presence of a Gazetted Officer was secured, who arrived at 7.15 p.m. Thereafter, the body search of the applicant was conducted, contraband was seized, and the arrest was formally recorded at 8.15 p.m. The applicant was produced before the Magistrate at 6.30 p.m. on 08/01/2026. It is thus evident that the period of detention from 7.00 p.m. to 8.15 p.m. was in accordance with the procedure



2026:KER:66054

:37:

established by law under Sections 42 and 50 of the NDPS Act. The reckoning of the twenty-four hour period mandated by Article 22(2) of the Constitution commenced only upon the formal recording of arrest at 8.15 p.m. Since the applicant was produced before the Magistrate on the next day at 6.30 p.m., well within twenty-four hours of arrest, no violation of Article 22(2) or Section 58 of the BNSS is disclosed.

(iv). **BA No.1161/2026:** The prosecution alleges that on 11/03/2024, the applicant offered a motorcycle lift to a 21-year-old woman and thereafter pushed her into a canal at Valoor, where he allegedly committed rape and murder before robbing her gold ornaments. The applicant was taken into custody at 2.00 p.m. on 16/03/2024, and his arrest was formally recorded at 12.30 p.m. on 17/03/2024. He was produced before the jurisdictional Magistrate at 7.45 p.m. the same day. The applicant contends that such production violated the constitutional mandate of Article 22(2).

(iv)(a). The case records, however, reveal that the crime was initially registered under Section 174 Cr.P.C. as a missing case as the victim who left her house to accompany her husband to hospital for treatment did not reach the destination. Her dead body was subsequently recovered from a stream beneath the culvert at Mookkanthodu, disclosing a case of homicide though the culprit



2026:KER:66054

:38:

remained unidentified. On examining CCTV footage and considering the modus operandi, the investigating officer suspected the applicant's involvement and took him into custody at 2.00 p.m. on 16/03/2024. Annexure-2 custody memo evidences that he was so taken pursuant to a notice under Section 160(1) Cr.P.C., when he was only a suspect. After thorough questioning, the officer became convinced of his complicity and immediately recorded his arrest at 12.30 p.m. on 17/03/2024, as borne out by Annexure-3 arrest memo. Thus, the custody from 2.00 p.m. on 16/03/2024 until 12.30 p.m. on 17.03.2024 was in accordance with the procedure established by law. The reckoning of the twenty-four hour period under Article 22(2) commenced only upon formal arrest at 12.30 a.m. on 17/03/2024. Since the applicant was produced before the Magistrate at 7.45 p.m. on the same day, well within the constitutional and statutory limit, there is no violation of Article 22(2) or Section 58 of the BNSS.

(v). **BA No.14864/2025:** The prosecution case, in brief, is that on 29/06/2025, acting on reliable information, the NCB Cochin Zonal Unit conducted search of the residence of the accused No.1 and seized 8.85 grams of LSD and 131.66 grams of ketamine. Incriminating materials and technical evidence were also recovered, linking the contraband to the darknet drug vendor 'ketamelon'.



2026:KER:66054

:39:

Pursuant to summons under Section 67 of the NDPS Act, the accused No.1 gave a voluntary statement implicating the applicant in procuring LSD, conspiring with him, and assisting in shipping consignments through darknet channels into India.

(v)(a). Simultaneously, the applicant's residence was searched at 9.00 a.m. on 29/06/2025. Though no narcotics were recovered, documents evidencing his connection with the accused No.1 were seized. The applicant disclosed that he had purchased a portable weighing machine and vacuum sealing sheets for accused No.1, and had booked several parcels either directly or by accompanying him. Electronic gadgets seized during the search revealed communications between the applicant and the accused No.1 relating to drug transactions. The proceedings, conducted in the presence of witnesses and in compliance with Section 42 of the NDPS Act, concluded at 7.30 p.m. on 29/06/2025. Thereafter, summons under Section 67 of the NDPS Act was issued directing the applicant to appear before the Zonal Director, NCB Cochin, at 8.00 a.m. on 30/06/2025. He appeared at 1.00 a.m., was permitted to rest, and after breakfast his statement was recorded. His arrest was formally recorded at 3.00 p.m. on 30/06/2025, and he was produced before the Magistrate at 8.28 p.m. the same day.

(v)(b). It is evident that the applicant's detention during the



2026:KER:66054

:40:

house search on 29/06/2025 and thereafter for recording his statement until 3.00 p.m. on 30/06/2025 was in accordance with the procedure established by law under Sections 42 and 67 of the NDPS Act. The reckoning of the twenty-four hour period under Article 22(2) commenced only upon formal arrest at 3.00 p.m. on 30/06/2025. Since production before the Magistrate occurred at 8.28 p.m. the same day, the constitutional and statutory mandate was duly complied with.

(v)(c). The applicant has further contended that there was non-compliance with Article 22(1) of the Constitution and Section 48 of the BNSS, since the grounds of arrest were not communicated to his relative. Annexure-8, the order dismissing his earlier bail application before the Sessions Court, Ernakulam, reveals that no such plea was raised at that stage. The Supreme Court in ***State of Meghalaya v. Sonam Raghuvanshi @ Bitti @ Bittu*** [2026 SCC OnLine SC 1392] has categorically held a fresh plea regarding the non-communication of the grounds of arrest cannot be taken in a subsequent bail application after the rejection of earlier bail application on merits. In the present case also, the contention that the grounds of arrest were not supplied to the applicant's relative has been raised for the first time in this bail application before this Court, and is therefore unsustainable.



2026:KER:66054

:41:

(vi). Since the quantity involved in the above cases (Crime Nos.6/2025, 115/2024, 1131/2025, 26/2026 & 1161/2026) is commercial, the jurisdiction of this Court to grant bail is circumscribed by the provisions of Section 37 of the NDPS Act. Bail can be granted in a case where there are reasonable grounds for believing that the accused is not guilty of such an offence and that he is not likely to commit any offence while on bail. A perusal of the case diaries would reveal that the accusations against the applicants are very serious in nature, and it *prima facie* shows a premeditated act on their part. Having considered the submissions and after having gone through the materials on record, I am afraid that there are no substantial or probable causes for believing that the applicants are not guilty of the offences charged. The applicants have not been able to point out the existence of any such facts or circumstances as are sufficient to justify recording a finding that they are not guilty of the offences charged. For these reasons, the applicants in BA Nos.14864/2025, 693/2026, 1161/2026, 1422/2026 and 2852/2026 are not entitled to bail, and their bail applications are liable to be dismissed.

(vii). **BA No. 2601/2026:** The applicant is arrayed as accused No.2. The seizure was effected from accused No.1 at 1.05 a.m. on 22/03/2026, and after compliance with statutory formalities, his



2026:KER:66054

:42:

arrest was recorded at 4.00 a.m. the same day. The applicant was detained on the basis of the confession of the accused No.1, who stated that the car used for transporting the contraband belonged to the applicant and that the transportation was at his instance, intended for delivery to one Sri. Thomas Kurian.

(vii)(a). Annexure-A3 remand report discloses that on 23/03/2026, the Inspector of Police received secret information that the applicant was at Ayyenthole, whereupon he was apprehended and detained in custody at the police station. The exact time of detention is not specified in Annexure-A3, but it records that after detaining the applicant, the police apprehended the accused No.3 and detained him along with the applicant. It was only thereafter, at 4.00 p.m., that the applicant's formal arrest was recorded. He was produced before the Magistrate at 4.00 p.m. on 24/03/2026, as evidenced by Annexure-A3.

(vii)(b). Though the remand report does not disclose the precise time of detention, the affidavit sworn by the applicant's wife asserts that he was detained at 10.30 p.m. on 23/03/2026. It is thus clear that the applicant remained in police custody well before the formal recording of arrest at 4.00 p.m. on 23/03/2026. Such detention, not being sanctioned by law, cannot be justified. The applicant was produced before the Magistrate twenty-four hours



2026:KER:66054

:43:

after his actual detention, thereby infringing the mandate of Article 22(2) of the Constitution, Sections 58 and 187(1) of the BNSS. The infraction of these constitutional and statutory safeguards renders the custody illegal, and the applicant is consequently entitled to be released on bail.

Slew of Guidelines

28. When Articles 21 and 22(2) of the Constitution are read conjointly with Sections 58 and 187(1) and (2) of BNSS (57 and 167(1) and (2) of Cr.P.C), the principle that emerges is clear: detention beyond twenty-four hours is permissible only upon judicial authorisation. To ensure effective enforcement of these constitutional and statutory guarantees, and bearing in mind the valuable suggestions of the learned *Amicus Curiae*, the following guidelines are issued:

1. Mandatory Notice for Detention – Any detention for investigation must be preceded by immediate issuance of notice under the relevant statutory provision. This formal trigger ensures that restraint on liberty is not arbitrary but grounded in law, thereby satisfying the requirement of “procedure established by law” under Article 21.
2. Documentation of Initial Apprehension – Investigating agencies



2026:KER:66054

:44:

shall record the precise time of initial detention or apprehension, in addition to the time of formal arrest. This measure secures transparency, prevents manipulation of timelines, and provides the constitutional basis for computing the twenty-four hour mandate under Article 22(2).

3. Production Before Magistrate – The arrested person must be produced before the Magistrate within twenty-four hours of detention, excluding only the travel time. Both the time of arrest and the time of production shall be duly documented.
4. Communication of Grounds of Arrest – The arrestee, as well as a relative, friend, or nominated person, must be informed of the grounds of arrest immediately upon detention. An entry to this effect specifying the exact time of such communication shall be made in the case diary, thereby safeguarding against coercion and ensuring compliance with constitutional jurisprudence.
5. Transmission of Records and Accused – Where investigation cannot be completed within twenty-four hours, the case records must be forthwith transmitted to the Magistrate along with the accused. This judicial oversight prevents unlawful detention and ensures that any extension of custody is lawful and justified.



2026:KER:66054

:45:

6. Transit Remand Requirement – Before effecting arrest outside jurisdiction, the police must secure a transit remand to transport the accused to the jurisdictional Magistrate. Production beyond twenty-four hours without such authorisation would be violative of Article 22(2).

7. Judicial Check Post – The Magistrate functions as the constitutional sentinel, obliged to verify whether constitutional and statutory safeguards have been honoured and to ensure that detention has not exceeded the limits contemplated under Article 22(2) of the Constitution and Section 58 of the BNSS. Thus, when an accused is produced before Magistrate for remand, it is the duty of the Magistrate/Court to ascertain whether there is compliance with Article 22(1) and (2) and Sections 47 and 48 of the BNSS. When violation is established, it is the duty of the Magistrate/Court to forthwith order release of the accused. The Magistrate must state explicitly in the remand order regarding the compliance/non-compliance of Article 22(1) and 22(2) of the Constitution and Sections 47, 48 and 58 of the BNSS.

Relief

29. In the result, BA No. 2601/26 is allowed, and BA No.14864/2025, BA No.693/2026, BA No. 1422/2026, BA



2026:KER:66054

:46:

No.1161/2026, and BA No.2852/2026 are dismissed. The applicant in BA No.2601/2026 shall be released on bail 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



2026:KER:66054

:47:

bail conditions or cancellation of bail on the grounds of violating the bail conditions shall be filed at the jurisdictional court.

Directions and Acknowledgment

30. The Registry is directed to transmit a copy of this order to the State Police Chief and to all criminal courts within the State for due compliance.

Before parting, this Court records its sincere appreciation for the earnest and valuable assistance rendered by the learned *Amicus Curiae* Sri.John S.Ralph as well as Sri.K.A.Noushad, Sri.M.C.Ashi and Smt.Sreeja V, who initially argued the cases on behalf of the prosecution in their capacity as the then Public Prosecutors.

Sd/-

DR. KAUSER EDAPPAGATH**JUDGE****Rp**



2026:KER:66054

:48:

APPENDIX OF BAIL APPL. NO. 14864 OF 2025

PETITIONER ANNEXURES

- Annexure 1 TRUE COPY OF THE AUTHORISATION U/S. 41(2) NDPS ACT DATED 28.06.2025
- Annexure 2 TRUE COPY OF THE SEARCH MAHAZAR PREPARED BY THE SEARCH OFFICER NAMED BIMAL I.K. DATED 29.06.2025.
- Annexure 3 TRUE COPY OF THE OCCURRENCE REPORT IN O.R. NO. 06/2025 OF NCB, COCHIN ZONAL UNIT.
- Annexure 4 TRUE COPY OF THE ARREST MEMO DATED 30.06.2025 .
- Annexure 5 TRUE COPY OF THE REMAND REPORT IN O.R. NO. 06/2025 DATED 30.06.2025 ALONG WITH ENDORSEMENT OF THE LEARNED MAGISTRATE DATED 30.06.2025.
- Annexure 6 TRUE COPY OF THE LIST OF DOCUMENTS PRODUCED BEFORE THE JFCM COURT, MUVATTUPUZHA .
- Annexure 7 TRUE COPY OF THE LIST OF DOCUMENTS DATED 04.07.2025.
- Annexure 8 CERTIFIED COPY OF THE ORDER IN CRL. M.C. NO. 2911/2025 IS PRODUCED AND MARKED AS ANNEXURE 8.
- Annexure 9 TRUE COPY OF THE DELIVERY REGISTER/SLIP DATED 10.07.2025 ALONG WITH THE COVERING LETTER DATED 18.06.2026.



2026:KER:66054

:49:

APPENDIX OF BAIL APPL. NO. 693 OF 2026

PETITIONER ANNEXURES

Annexure A1	TRUE COPY OF THE FINAL REPORT IN CRIME NO. 115 OF 2024 OF EXCISE RANGE OFFICE, SULTHAN BATHERY, WAYANAD DISTRICT
Annexure A2	TRUE COPY OF THE ORDER DATED 09.05.2025 IN CRL.M.P. NO. 487 OF 2025 ON THE FILES OF SPECIAL JUDGE (NDPS ACT CASES)/ADDITIONAL SESSIONS JUDGE-II, KALPETTA
Annexure A3	TRUE COPY OF THE ORDER DATED 15.07.2025 IN CRL.M.P. NO. 873 OF 2025 ON THE FILES OF SPECIAL JUDGE (NDPS ACT CASES)/ADDITIONAL SESSIONS JUDGE-II, KALPETTA
Annexure A4	TRUE COPY OF THE ORDER DATED 11.08.2025 IN BA NO. 8882 OF 2025 ON THE FILES OF HON'BLE HIGH COURT OF KERALA
Annexure A5	TRUE COPY OF THE ORDER DATED 30.08.2025 IN CRL.M.P. NO. 1112 OF 2025 ON THE FILES OF SPECIAL JUDGE (NDPS ACT CASES)/ADDITIONAL SESSIONS JUDGE-II, KALPETTA
Annexure A6	TRUE COPY OF THE ORDER DATED 26.10.2025 IN BA NO. 11692 OF 2025 ON THE FILES OF HON'BLE HIGH COURT OF KERALA
Annexure A7	TRUE COPY OF THE REMAND PETITION AND 1ST REMAND ORDER IN CRIME NO. 115 OF 2024 OF EXCISE RANGE OFFICE, SULTHAN BATHERY, WAYANAD DISTRICT



2026:KER:66054

:50:

APPENDIX OF BAIL APPL. NO. 1161 OF 2026

PETITIONER ANNEXURES

Annexure 1	A TRUE COPY OF THE FINAL REPORT IN CRIME NO. 240/2024
Annexure 2	TRUE COPY OF CUTODY MEMO IN CRIME NO. 240/2024
Annexure 3	TRUE COPY OF ARREST MEMO IN CRIME NO. 240/2024
Annexure 4	A TRUE COPY OF THE ORDER IN CRL. M.P. NO. 02/2026 PASSED BY ADDITIONAL SESSIONS COURT-I, KOZHIKODE



2026:KER:66054

:51:

APPENDIX OF BAIL APPL. NO. 1422 OF 2026

PETITIONER ANNEXURES

Annexure A1	THE TRUE COPY OF THE FIR AND FIS DATED 05.10.2025 IN NDPS CRIME NO.1131/2025 ON THE FILE OF THE KONDOTTY POLICE STATION
Annexure A2	THE TRUE COPY OF THE REMAND REPORT IN CRIME NO1131/2025 ON THE FILES OF THE KONDOTTY POLICE STATION
Annexure A3	THE TRUE COPY OF THE REMAND ORDER PASSED BY THE THE HONBLE JUDICIAL FIRST CLASS MAGISTARTE MALAPPURAM DATED 06/10/2025
Annexure A4	THE TRUE COPY OF THE REPORT FILED BY THE SUB INSPECTOR AREECODE POLICE STATION
Annexure A5	THE TRUE COPY OF THE SEIZURE MEHSAR IN CRIME NO 1131/2025 ON THE FILES OF THE KONDOTTY POLICE STATION
Annexure A6	THE TRUE COPY OF THE ORDER DATED 31/12/2025 IN CRL MP3854/2025 ON THE FILES OF THE SPECIAL COURT NDPS MANJERI
Annexure A7	THE TRUE COPY OF THE ORDER DATED 06/02/2026 IN BA 453/2026



2026:KER:66054

:52:

APPENDIX OF BAIL APPL. NO. 2601 OF 2026

PETITIONER ANNEXURES

Annexure A1	THE TRUE PHOTOCOPY OF THE FIR IN CRIME NO 279/2026 OF THE VADAKEKAD POLICE STATION, THRISSUR, DATED 22.03.2026
Annexure A2	THE TRUE PHOTOCOPY OF THE ARREST MEMO IN CRIME NO 279/2026 OF THE VADAKEKAD POLICE STATION, THRISSUR, DATED 23.03.2026
Annexure A3	THE TRUE PHOTOCOPY OF THE REMAND REPORT IN CRIME NO 279/2026 OF THE VADAKEKAD POLICE STATION, THRISSUR, DATED 24.03.2026
Annexure A4	THE TRUE COPY OF THE BAIL APPLICATION DATED 20.04.2026 FILED BEFORE THE SESSIONS COURT, THRISSUR
Annexure A5	THE TRUE COPY OF THE ORDER DATED 02.05.2026 IN CRL.M.P NO. 5/2026
Annexure A6	THE AFFIDAVIT OF SMT. DEEPA DAS DATED 14.07.2026
Annexure A7	THE TRUE COPY OF THE SCREENSHOT OF THE WHATSAPP CALL LOG OF SMT. DEEPA DAS DATED 23.03.2026
Annexure A8	THE TRUE COPY OF THE SCREENSHOT OF THE CALL LOGS OF SMT. DEEPA DAS DATED 23.03.2026



2026:KER:66054

:53:

B APPENDIX OF BAIL APPL. NO. 2852 OF 2026

PETITIONER ANNEXURES

Annexure 1	TRUE COPY OF THE FIR IN CRIME NO. 26/2026 OF KOYILANDY POLICE STATION, KOZHIKODE DISTRICT, DATED 08/01/2026
Annexure 2	TRUE COPY OF THE REMAND REPORT
Annexure 3	TRUE COPY OF THE ORDER DATED 21/04/2026 IN CRL.M.P 03/2026 OF THE SPECIAL JUDGE (NDPS ACT CASES), VATAKARA