



2026:KER:66077

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 21ST DAY OF AUGUST 2026 / 30TH SRAVANA, 1948BAIL APPL. NO. 3965 OF 2026

O.R. NO.9/2026 OF NARCOTICS CONTROL BUREAU, KOCHI, Ernakulam

PETITIONER/6TH ACCUSED:

MUHAMMED ASHFAQ C, AGED 24 YEARS, S/O MUHAMMED
ASHARAF, CHATHOLIL (H), VALAMBOOR P.O, MALAPPURAM
DISTRICT, PIN - 679325

BY ADVS. SRI. N.KRISHNA PRASAD
SRI. IMAM GRIGORIOS KARAT
SHRI.A.MOHAMMED FAIZAL, SRI.P.SHANES METHAR
SHRI.HARKISH SREETHU V.S.
SHRI.ARJUN P.V.

RESPONDENT/RESPONDENT/COMPLAINANT:

UNION OF INDIA, REPRESENTED BY DIRECTOR, NARCOTIC
CONTROL BUREAU, COCHIN ZONAL UNIT, ERNAKULAM
THROUGH PUBLIC PROSECUTOR, DISTRICT & SESSIONS
COURT, ERNAKULAM, PIN - 682011

BY ADVS. SHRI.R.VINU RAJ, SPL. P. P. NARCOTICS
CONTROL BUREAU
SMT.ANJALY SAGAR A. A.
SHRI.SANGEETH KRISHNA G.S.

SHRI. V. VINAY -SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.08.2026 ALONG WITH BA NO.4218/2026 & CON.CASE, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:



2026:KER:66077

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 21ST DAY OF AUGUST 2026 / 30TH SRAVANA, 1948BAIL APPL. NO. 4218 OF 2026

O.R NO.9/2026 OF NARCOTICS CONTROL BUREAU, KOCHI, Ernakulam

PETITIONER/ACCUSED NO.4:

MIKHIN MATHEW GRACIOUS, AGED 28 YEARS, S/O LATE
V.S. GRACIOUS, RESIDING AT 35/1564A, VALIYAPARAMBIL
HOUSE, FLAT NO.60, FRIENDSHIP NAGAR, PALARIVATTOM
P. O., ERNAKULAM DISTRICT, PIN - 682024

BY ADVS. SRI.P.MOHAMED SABAH
SRI.LIBIN STANLEY, SMT.SAIPOOJA
SRI.SADIK ISMAYIL, SMT.R.GAYATHRI
SRI.M.MAHIN HAMZA, SHRI.ALWIN JOSEPH
SRI.T.I.SAFDARSHAH, SHRI.BENSON AMBROSE
SMT.RAMEESA P. A.

RESPONDENT/S:

THE SUB INSPECTOR,
NARCOTICS CONTROL BUREAU, COCHIN ZONAL UNIT,
KENDRIYA BHAVAN, CSEZ P.O, KAKKANAD, ERNAKULAM
DISTRICT, REPRESENTED BY ITS BY ITS SPECIAL
STANDING COUNSEL, HIGH COURT OF KERALA, ERNAKULAM
DISTRICT, PIN - 682031

BY ADVS. SHRI.R.VINU RAJ, SPL. P.P., NCB
SHRI.ASHOK POULO PAUL
SMT.ANJALY SAGAR A. A.
SHRI.SANGEETH KRISHNA G.S.

SMT. ANEEDA BEEGUM -SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.08.2026, ALONG WITH Bail Appl No. 3965/2026 & CONN.CASE,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2026:KER:66077

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 21ST DAY OF AUGUST 2026 / 30TH SRAVANA, 1948BAIL APPL. NO. 4547 OF 2026

O.R. NO.9/2026 OF NARCOTICS CONTROL BUREAU, KOCHI, Ernakulam

PETITIONER/ACCUSED NO.7:

SHAHUL HAMEED K.T, AGED 25 YEARS, S/O ABDULLA K.T
KAITHAKOTTUTHODI HOUSE, VALAMBUR P.O.,
CHEERATTAMANNA, PERINTHALMANNA, MALAPPURAM
DISTRICT, PIN - 679325

BY ADVS. SRI.P.MOHAMED SABAH
SRI.LIBIN STANLEY, SMT.SAIPOOJA
SRI.SADIK ISMAYIL, SRI.T.I.SAFDARSHAH
SMT.R.GAYATHRI, SRI.M.MAHIN HAMZA
SHRI.ALWIN JOSEPH, SHRI.BENSON AMBROSE
SMT.RAMEESA P. A.

RESPONDENT/COMPLAINANT:

THE SUB INSPECTOR, NARCOTICS CONTROL BUREAU, COCHIN
ZONAL UNIT, KENDRIYA BHAVAN, CSEZ, P.O, KAKKANAD,
ERNAKULAM DISTRICT, REPRESENTED BY ITS BY ITS
SPECIAL STANDING COUNSEL ,HIGH COURT OF KERALA,
ERNAKULAM DISTRICT, PIN - 682031

BY ADVS. SHRI.R.VINU RAJ, SPL. P. P. NCB
SMT.ANJALY SAGAR A. A.
SHRI.SANGEETH KRISHNA G.S.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.08.2026, ALONG WITH Bail Appl No. 3965/2026 & CONN.CASE,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**"CR"****ORDER**

The pivotal issue for consideration in these regular bail applications is whether the constitutional test under Article 22(1) and (2), as operationalised through Sections 47 and 48 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, BNSS), is to be applied with reference to the nearest Magistrate before whom the accused is first produced after arrest, or whether it must necessarily be confined to the jurisdictional Magistrate before whom he may ultimately be brought.

Facts

2. The applicants are the accused Nos.4, 6 and 7 in OR No.9/2026 of the Narcotics Control Bureau, Kochi, Ernakulam. B.A.No. 4218/2026 is filed by the accused No.4, B.A.No.3965/2026 is filed by the accused No.6, and B.A. No.4547/2026 is filed by the accused No.7. The offences alleged are punishable under Sections 8(c), 20(b)(ii)(C), 23, 25, 27A, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act).

3. The gist of the prosecution case is that, based on credible information, on 10.6.2026 at 7.45 p.m, the NCB, Cochin Zonal Unit, seized 604 grams of Charas from the residence of the accused No.1, wherein the accused Nos.2 and 3 were also present.



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It is alleged that, during the interrogation of the accused No.1, he disclosed that the seized contraband had been sourced from a Keralite drug trafficking gang based in Greater Noida, Uttar Pradesh. It is further alleged that the accused No. 1 disclosed that the remaining contraband was concealed in the rented premises of the accused Nos. 4 and 5 at Greater Noida, Uttar Pradesh. Thereafter, officers of the NCB Cochin Zonal Unit, along with officials of the NCB Delhi Zonal Unit, conducted a search at Shree Radha Sky Gardens Apartment Complex, Greater Noida (West), Uttar Pradesh, where the accused Nos. 4, 6, 7 and 8 were present. Subsequently, on 11.6.2026 at 9.00 p.m, in the presence of independent witnesses, a thorough search of the said flat was conducted, which allegedly resulted in the recovery of 36.735 kgs of Hydroponic Cannabis and 3.942 kgs of Charas. Thus, the accused together committed the aforementioned offences.

4. The applicants have been in judicial custody since 14.06.2026. Though multiple grounds were urged in support of the bail applications, the principal contention advanced is that the grounds of arrest were not duly communicated to their relatives, as mandated under Section 48 of the BNSS and Article 22(1) of the Constitution of India.

5. I have heard Sri.N.Krishna Prasad and Sri.P.Mohamed



Sabah, the learned Counsel for the applicants and Sri. R. Vinu Raj, the learned Special Prosecutor, NCB. Perused the case diary.

Rival Submissions

6. The crime was registered by the Cochin Unit of the Narcotics Control Bureau on 11.06.2026. The applicants were apprehended at Delhi in the early hours of 12.06.2026 and produced before the Judicial First Class Magistrate, Patiala House Court, New Delhi, on the same day, where a transit warrant was obtained. Pursuant thereto, they were brought to Kochi on 14.06.2026 and produced before the Sessions Court, Ernakulam, at 8.45 p.m. on the same day. The specific case of the accused Nos. 4 and 7 is that no intimation of arrest, as contemplated under Section 48 of the BNSS, was furnished to any of their relatives or friends prior to their production before the Magistrate at New Delhi. The learned counsel for the accused Nos. 4 and 7 Sri.P.Mohamed Sabah contended that, since the grounds of arrest were not communicated to their relatives before such production, the arrests stand vitiated and the accused Nos.4 and 7 are entitled to bail. Reliance was placed on ***Kasireddy Upender Reddy v. State of Andhra Pradesh*** [2025 SCC OnLine SC 1228].

7. Accused No. 6 was arrested at 2.20 a.m. on 12.06.2026 and produced before the Magistrate at New Delhi on the



same day. There is, however, a dispute regarding the time of production. While accused No. 6 asserts that he was produced at 2.45 p.m. on 12.6.2026, the prosecution maintains that the production was only at 6.45 p.m. The records disclose that the father of the accused No. 6 was informed of the grounds of arrest through WhatsApp at 3.01 p.m. on 12.06.2026. Subsequently, since the father informed that he was abroad, the communication was also furnished to the friend of the accused No. 6, namely Shameer, on 14.06.2026. Though the bail order of the Sessions Court records the date as 12.06.2026, the learned Special Public Prosecutor for NCB concedes that intimation to the friend was in fact given only on 14.06.2026. The learned counsel for the accused No. 6 Sri.N.Krishna Prasad argued that the grounds of arrest were not communicated to the father or friend of the accused No.6 prior to his production before the Magistrate at 2.45 p.m. on 12.06.2026, thereby vitiating the arrest. Alternatively, it was submitted that even if the prosecution's version of production at 6.45 p.m. is accepted, the intimation to the father was delayed by thirteen hours, which itself constitutes an infraction of Article 22(1). Reliance was placed on ***Joginder Kumar v. State of U.P.*** [(1994) 4 SCC 260], ***D.K. Basu v. State of West Bengal*** [(1997) 1 SCC 416], ***Pankaj Bansal v. Union of India*** [(2024) 7 SCC 576], ***Prabir Purkayastha v. State***



(NCT of Delhi) [(2024) 8 SCC 254], **Vihaan Kumar v. State of Haryana** [(2025) 5 SCC 799], **Kasireddy** (supra), and **Mihir Rajesh Shah v. State of Maharashtra** [(2026) 1 SCC 500].

8. Per contra, the learned Special Public Prosecutor for NCB Sri.R.Vinu Raj submitted that the grounds of arrest were duly furnished to the relatives of the accused Nos. 4, 6, and 7 prior to their production before the Magistrate at New Delhi. It was further contended that when an accused is arrested outside the jurisdiction in which the crime is registered and is produced before the nearest Magistrate for securing a transit remand, compliance with Article 22(1) of the Constitution and Sections 47 and 48 of the BNSS is not immediately required. According to him, the mandate of these provisions arises only when the accused is produced before the jurisdictional Magistrate pursuant to the transit warrant. It was submitted that, undisputedly, the grounds of arrest were communicated to the relatives or friends of accused Nos. 4, 6, and 7 prior to their production before the jurisdictional Magistrate at Ernakulam.

Constitutional Framework: Articles 21 and 22

9. The Constitution of India enshrines a charter of fundamental rights in Part III. Among them, Article 21 stands as one of the most vital guarantees, infallibly assuring the right to life and



personal liberty. Its dimensions, diversified through judicial precedent, render any wrongful detention or confinement a direct affront to Article 21. Complementing this safeguard, Article 22 operates as a constitutional check against arbitrary deprivation of liberty. It embodies two non-negotiable guarantees: first, under Article 22(1), the right of the arrested person to be informed of the grounds of arrest and to consult and be defended by legal counsel; and second, under Article 22(2), the mandate that the arrested person be produced before a Magistrate within twenty-four hours of arrest. These protections are indispensable, for they ensure that liberty is not left vulnerable to unbridled executive power.

10. The right to intimate or communicate with a relative or next friend has been recognised as an essential facet of Article 22(1). In **Joginder Kumar** (supra), the Supreme Court held that the right of an arrested person, upon request, to have someone informed and to consult privately with a lawyer is inherent in Articles 21 and 22(1), requiring scrupulous protection. To secure effective enforcement, the Court directed: (i) that an arrested person is entitled, if he so requests, to have one friend, relative, or other person known to him informed of his arrest and place of detention; (ii) that the police officer must inform the arrestee of this right upon being brought to the police station; and (iii) that an entry



be made in the police diary recording who was informed. The Court further held that it is the duty of the Magistrate, before whom the arrested person is produced, to satisfy himself that these requirements have been complied with.

11. In ***D.K. Basu*** (supra), the Supreme Court issued comprehensive guidelines governing arrest. It was specifically directed that a person arrested or detained in custody is entitled to have one friend, relative, or other person known to him informed, as soon as practicable, of his arrest and place of detention, unless the attesting witness to the memo of arrest is himself such a relative or friend (Guideline No. 3). Further, an entry must be made in the detention diary recording the arrest, disclosing the name of the next friend informed and the particulars of the police officials in whose custody the arrestee is placed (Guideline No. 6).

Statutory Reinforcement under Cr.P.C. and BNSS

12. It is thus evident that failure to inform a near relative 'as soon as possible' constitutes a violation of the rights guaranteed under Article 22(1) read with Article 21. This was taken to its logical end by way of inserting the same as Section 50A of Cr.P.C. in the year 2005. Thus, having found its way into the Cr.P.C., i.e., Section 50A, the twin requirements of constitution i.e., to be informed of the grounds of arrest and that of intimating the



nearest relative/friend, were clearly in enforcement of the rights guaranteed under the Constitution. These provisions now stand embodied in Sections 47 and 48 of the BNSS. Even apart from Section 48 of the BNSS, the right to intimate a relative or friend is integral to Article 22(1); the statutory provision merely reinforces it. The mandatory language of Section 48 underscores its compelling nature and leaves no scope for dilution.

Supreme Court Precedents on Grounds of Arrest

13. The constitutional mandate of furnishing the grounds of arrest in writing to the person arrested has been explained in **Pankaj Bansal** (supra), where the Supreme Court emphasised that such communication must be meaningful so as to serve the intended purpose. This principle was reiterated in **Prabir Purkayastha** (supra). In **Vihaan Kumar** (supra), the Court held that the requirement of communicating the grounds of arrest under Section 50 Cr.P.C. (Section 47 BNSS) must be purposeful, and extends to friends, relatives, or other persons nominated by the arrestee, in terms of Section 50-A Cr.P.C. (Section 48 BNSS). This obligation is in addition to the mandate under Section 50(1) Cr.P.C. (Section 47(1) BNSS). In **Kasireddy** (supra), the Supreme Court followed **Vihaan Kumar** (supra) and reiterated that the grounds of arrest must be furnished not only to the arrestee but also to his



family members or relatives, so that necessary arrangements may be made to secure his release at the earliest opportunity. This, the Court held, is essential to render the guarantee under Article 22(1) meaningful and effective, failing which the arrest may be rendered illegal. Subsequently, in **Mihir Rajesh Shah** (supra), the Supreme Court reaffirmed the dictum in **Vihaan Kumar** (supra), holding that effective implementation of Article 22 requires communication of the grounds of arrest not only to the detainee but also to his relatives, friends, or nominated persons, as envisaged under Section 50-A Cr.P.C. (Section 48 BNSS). The interpretation of constitutional provisions by the Supreme Court forms part of constitutional law and is binding under Article 141. The furnishing of grounds of arrest to the detainee, and simultaneously to his relatives or friends, has thus been construed as an integral component of Article 22(1), as observed in **Vihaan Kumar** (supra), **Kasireddy** (supra), and **Mihir Rajesh Shah** (supra). Failure to comply with this dual requirement vitiates the arrest.

Transit Remand and Constitutional Safeguards

14. Section 45 of the BNSS (48 of the Cr.P.C.) empowers the police to pursue an accused beyond their territorial jurisdiction. A police officer authorised to arrest without warrant may, for that purpose, pursue the individual anywhere in India.



However, before effecting arrest outside the local jurisdiction, the police are obliged to secure a transit remand, thereby enabling them to lawfully convey the accused from the place of arrest to the jurisdiction where the offence is registered and where investigation and trial may proceed. The primary object of such remand is to facilitate the lawful transfer of custody from one jurisdiction to another. In **Priya Indoria v. State of Karnataka** [(2024) 4 SCC 749], while considering the scope of anticipatory bail under Section 438 Cr.P.C. in relation to FIRs registered outside territorial jurisdiction, the Supreme Court held that immediately upon arrest outside the jurisdiction where the crime is registered, the police are duty-bound to obtain a transit remand for production of the accused before the competent Magistrate, in conformity with Article 22. Thus, obtaining a transit warrant is mandatory for the police to claim protection under Article 22(2); failure to do so, and producing the accused before the jurisdictional Magistrate beyond twenty-four hours without such warrant, constitutes a violation of Article 22(2). (See **Vishal Manohar Mandrekar v. State of Telangana**, 2024 SCC OnLine TS 69).

15. A reading of Section 58 read with Section 187 of BNSS shows that the production before the Magistrate is to the nearest Magistrate and is not with respect to the jurisdictional



Magistrate. Read in the same light, Sections 47 and 48 of BNSS, which deal with Article 22(1) have to be construed consistent with the mandate of Article 22(2). For Article 22(1), it cannot be a jurisdictional Magistrate, whereas for the purpose of Article 22(2), it has to be the nearest Magistrate. This is so because the fundamental aspect that has to be ascertained on production in the event of an arrest and detention is the very 'legality' of the arrest and not the question whether the accused is liable to be granted bail or not. The contextual milieu arising from a construct of the above provisions is that the checks and balances as provided for in Article 22(1) will have to be met when the arrested person is produced before the Magistrate for the first time, i.e. the nearest Magistrate (who may or may not be a jurisdictional Magistrate) upon arrest and detention.

16. A transit remand is nevertheless a remand and is handing over to police custody. That transit remand amounts to police custody is established by the judgment of the Supreme Court in **Gautam Navlakha v. National Investigating Agency** [(2022) 13 SCC 542]. In that decision, the Supreme Court characterised the transit remand as police custody under Section 167 of Cr.P.C. Without legitimising the arrest of the person, one cannot be handed over to police custody. Essentially therefore, the Magistrate to



whom the person is produced after the arrest-the mandatory requirement of ascertaining whether the very arrest is illegal cannot be shifted to the jurisdictional Magistrate. Any such construct would render the very appreciation of Article 22(2) at two different points of time by two different Magistrates. If the import of "transit remand" is "police custody", not to read into Section 48 of BNSS would be a dilution of Article 22 itself.

17. In **Vihaan Kumar** (supra), it was specially held that when an arrested person is produced before a judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and the mandatory safeguards has been made and when a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. The above findings consciously do not make any reference to a jurisdictional Magistrate. Instead, and which is also consistent with the constitutional guarantees, the emphasis is on the arrested person being brought before a judicial Magistrate. This is so because the moment it is established that there is non-compliance with Article 22(1), no further orders can be issued. When it may be true that the main objective of 'transit remand' is to facilitate the production of the arrested person before the competent Magistrate, the facilitative mechanism cannot trammel



Article 22(1) of the Constitution. Thus, when a person who is arrested is brought before a non-jurisdictional Magistrate even if only for the purpose of ordering a transit or transit remand, it is imperative that the grounds of arrest be communicated both to the arrested and to his relative or friend, as mandated under Article 22(1) of the Constitution and Sections 47 and 48 of the BNSS, prior to such production.

Merit Analysis

18. Coming to the facts of the cases, there is no material on record to establish that the relatives or friends of the accused Nos. 4 and 7 were communicated the grounds of arrest prior to their production before the Magistrate at New Delhi. Annexure-5 in B.A. No. 4547/2026 and Annexure-8 in B.A. No. 4218/2026 are the notices issued under Section 48 of the BNSS to the relatives of the accused Nos. 7 and 4 respectively. These documents purport to show service on the brother of the accused No. 7 and the cousin of the accused No. 4. However, both were admittedly in Kerala during the relevant period. The endorsements therein record service on 12.06.2026, which is impossible in view of their presence in Kerala on that date. The definite case of the accused Nos. 4 and 7 is that their relatives were summoned to the NCB office at Kakkanad on 14.06.2026, where their signatures were



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obtained on the arrest intimations. Significantly, the remand reports of the accused Nos. 4 and 7 contain no reference to any communication of the grounds of arrest to their relatives prior to their production before the Magistrate at New Delhi. These circumstances cumulatively establish that the communication of the grounds of arrest to the relatives of the accused Nos. 4 and 7 occurred only after their production before the Magistrate at New Delhi. There is, therefore, total non-compliance with Section 48 of the BNSS. Consequently, their arrests stand vitiated, and they are entitled to bail.

19. As already noted, there exists a dispute regarding the time of production of the accused No. 6 before the Magistrate at New Delhi. According to the accused No. 6, he was produced at 2.45 p.m. on 12.06.2026, whereas the prosecution contends that the production was only at 6.45 p.m. It is undisputed that the father of the accused No. 6 was communicated the grounds of arrest through WhatsApp at 3.01 p.m. Thus, if the prosecution's version of production at 6.45 p.m. is accepted, the communication preceded production by two hours. However, apart from this bare assertion, the prosecution has placed no material on record, nor does the case diary contain any entry, to substantiate that the production occurred at 6.45 p.m. In ***Vihaan Kumar*** (supra), it was



categorically held that when an arrested person alleges non-compliance with Article 22(1), the burden lies squarely on the investigating agency to establish compliance. The remand report too is silent as to the time of production. The investigating agency and the court would possess documents capable of proving the exact time of production, yet none have been produced. In these circumstances, the assertion of the accused No. 6 that he was produced at 2.45 p.m. must be accepted. If that be so, the grounds of arrest were not communicated to his relative prior to his production before the Magistrate at New Delhi, thereby vitiating the arrest.

Examination of the *Mihir Rajesh Shah* Exception

20. Even if it is assumed that the accused No.6 was produced before the Magistrate at 6.45 p.m only as contended by the prosecution, there is a considerable delay of 13 hours in communicating the grounds of arrest, which is beyond the timeline prescribed in ***Mihir Rajesh Shah*** (supra). Neither Article 22(1) of the Constitution nor Section 47 of the BNSS (S.50 of Cr.P.C) prescribe any definite timeframe to communicate the grounds of arrest. Article 22(1) uses the words “as soon as may be”, and Section 47(1) uses the word ‘forthwith’. For the first time, a timeframe was prescribed in ***Mihir Rajesh Shah*** (supra). In



paragraph 49 of ***Mihir Rajesh Shah*** (supra), the Supreme Court specifically refers to the silence in the statute with regard to the mode, nature and the time and stage at which the grounds of arrest have to be communicated. Interpreting Article 22 and more particularly, the expression “as soon as may be”, it was held that it is obviously not prior to arrest, but can be on arrest or thereafter. The indication is as early as it can be conveyed. Having said so, the Supreme Court also goes on to say that there may be situations wherein it may not be practically possible to supply such grounds of arrest to the arrested person at the time of his arrest or immediately. It is in paragraph 50 that what can verily be called as an exception is carved out. The Supreme Court proceeds to say that a rigid insistence upon informing the arrested person of the written grounds of arrest before or at the time of effecting the arrest or immediately thereafter may result in police officers not being able to discharge their duty and responsibility efficiently and effectively. By holding that the constitutional safeguards, valuable as they are, cannot be interpreted in a manner to allow it to metamorphose into a procedural impediment that handicaps the law enforcing agency in due lawful discharge of their duties, the Supreme Court proceeded to say that a balance between compliance of the constitutional as also the statutorily mandated safeguards on the



one hand, vis-a-vis the effective discharge of lawful statutory law enforcement duties and responsibilities cast upon the State agencies must be struck. It is in paragraph 52 that the two-hour rule is explained by the Supreme Court. Categorically, it was held that in cases where the police are already in possession of the documentary material furnishing a cogent basis for the arrest, the written grounds for arrest must be furnished to the arrestee on his arrest. In exceptional circumstances, such as offences against body or property committed in *flagrante delicto*, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. Later, a written copy of the grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to the production of the arrestee before the Magistrate for remand proceedings.

21. While retaining the pristine constitutional principle that the grounds of arrest must be furnished as soon as possible to the arrestee, the Supreme Court was only carving out an exception, naming the circumstances where the grounds of arrest, i.e, communication in writing to the arrestee, could be delayed. By extension, the intimation of the grounds of arrest to the relatives



can get delayed. While permitting a delayed issuance of the grounds for arrest in writing to the arrestee, the Supreme Court further kept a safety valve inasmuch as it should not be in any event later than two hours prior to the production of the arrestee before the Magistrate for remand proceedings.

22. The above judgment in no manner supports the prosecution. In the present cases, the issue is not regarding the non-furnishing of the grounds of arrest to the arrestee. It is an admitted case that the grounds of arrest were furnished to the arrestee in writing at 2.20 a.m. This therefore takes away any exceptional circumstances as enumerated in ***Mihir Rajesh Shah*** (supra). The fact situation herein is one wherein, despite the issuance of the grounds of arrest to the applicant (accused No.6) at 2.20 am on 12.6.2026, the intimation given to the father, which is again a constitutional requirement under Article 22(1), takes place after a delay of 13 hours (3.01 p.m on 12.6.2026). When the requirement of Sections 47 and 48 of the BNSS forms an integral part of Article 22(1), and when the connotations of “as soon as may be” in Article 22(1) remains unchanged, subject to the exceptions in the above judgment, on the sole ground that intimation to the father has been delayed by 13 hours admittedly, is itself an infraction of Article 22(1). The judgment of the Supreme Court in



Mihir Rajesh Shah (supra), which lays down the two-hour rule, is thus not relevant in the present context.

Conclusion

23. The upshot of the foregoing discussion is that there has been complete non-compliance with Article 22(1) of the Constitution read with Section 48 of the BNSS. The grounds of arrest were not communicated to the relatives or friends of the accused Nos. 4, 6, and 7 in the manner mandated by the constitutional and statutory provisions. Consequently, the arrests of the accused Nos. 4, 6, and 7 stand vitiated, and they are entitled to be released on bail.

Relief

In the result, the bail applications are allowed, and the applicants are released on bail on the following conditions:-

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

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

(iii) The applicants shall appear before the



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

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

(v) The applicants 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 applicants 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

Rp



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APPENDIX OF BAIL APPL. NO. 3965 OF 2026

PETITIONER ANNEXURES

Annexure-I TRUE COPY OF THE CRL MP NO.1/2026 IN OR NO. 9/2026 OF NCB, COCHIN DATED 22.6.2026

Annexure-II TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENTS DATED 29.6.2026

Annexure-III TRUE COPY OF THE CRL MP NO.2/2026 IN OR NO 9/2026 OF NCB, COCHIN DATED 27. 6.2026

Annexure-IV TRUE COPY OF THE ORDER DATED 4.7.2026 IN CRL MP.NO.1 OF 2026 IN OR NO 9/2026 OF NCB, COCHIN ON THE FILES OF THE ADDITIONAL DISTRICT AND SESSIONS COURT-I, ERNAKULAM

RESPONDENT ANNEXURES

Annexure 1 arrest intimation made through whatsapp call at 3.01 pm to the petitioners father on 12/6/ 2026

Annexure 2 WhatsApp screenshot reflecting the location of Smt. Vijayshree Rathore, Hon'ble Judicial First Class Magistrate-05 at her residence was shared with/obtained by the NCB officers at 6:09 p.m on 12/6/2026



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APPENDIX OF BAIL APPL. NO. 4218 OF 2026

PETITIONER ANNEXURES

- Annexure 1 TRUE COPY OF THE SEIZURE MAHAZAR DATED 10.06.2026 IN O.R NO.09/2026 OF NCB, COCHIN, ERNAKULAM DISTRICT
- Annexure 2 TRUE COPY OF THE SEIZURE MAHAZAR DATED 11.06.2026 IN O.R NO.09/2026 OF NCB, COCHIN, ERNAKULAM DISTRICT
- Annexure 3 TRUE COPY OF THE INFORMATION NOTE DATED 10.06.2026
- Annexure 4 TRUE COPY OF THE INFORMATION NOTE DATED 11.06.2026
- Annexure 5 TRUE COPY OF THE REMAND REPORT DATED 11.06.2026 OF THE ACCUSED NOS.1 TO 3 IN O.R NO.09/2026 OF NCB, COCHIN, ERNAKULAM DISTRICT
- Annexure 6 TRUE COPY OF THE REMAND REPORT DATED 14.06.2026 OF THE ACCUSED NOS.4 TO 8 IN O.R NO.09/2026 OF NCB, COCHIN, ERNAKULAM DISTRICT
- Annexure 7 TRUE COPY OF THE NOTICE TO INFORM THE ARRESTEE/PETITIONER THE GROUNDS AND REASONS FOR ARREST U/S 47 OF BNSS DATED 12.06.2026
- Annexure 8 TRUE COPY OF THE NOTICE ISSUED U/S 48 OF BNSS TO THE RELATIVE OF THE PETITIONER DATED 12.06.2026

**APPENDIX OF BAIL APPL. NO. 4547 OF 2026****PETITIONER ANNEXURES**

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| Annexure 1 | TRUE COPY OF THE SEIZURE MAHAZAR DATED 10.06.2026 IN O.R NO.09/2026 OF NCB, COCHIN, ERNAKULAM DISTRICT |
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| Annexure 3 | TRUE COPY OF THE REMAND REPORT DATED 14.06.2026 OF THE ACCUSED NOS. 4 TO 8 IN O.R NO.09/2026 OF NCB, COCHIN, ERNAKULAM DISTRICT |
| Annexure 4 | TRUE COPY OF THE NOTICE TO INFORM THE ARRESTEE/PETITIONER THE GROUNDS AND REASONS FOR ARREST U/S 47 OF BNSS |
| Annexure 5 | TRUE COPY OF THE NOTICE ISSUED U/S 48 OF BNSS TO THE RELATIVE OF THE PETITIONER |