



2026:KER:70846

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 18TH DAY OF SEPTEMBER 2026 / 27TH BHADRA, 1948

BAIL APPL. NO. 4931 OF 2026

CRIME NO.20/2026 OF Chelannur Excise Range Office, Kozhikode

AGAINST THE JUDGMENT DATED 30.07.2026 IN Bail Appl.

NO.3851 OF 2026 OF HIGH COURT OF KERALA

PETITIONER/ACCUSED:

SAGESH, AGED 35 YEARS, S/O RAGHAVAN, KARATTUMEETHAL
(HO), PATTERNPALAM, THALAKKULATHUR (PO), KOZHICODE -
673616

BY ADVS. SRI.M.DEVESH
SRI.M.ANURROOP
SHRI.MURSHID ALI M.
SMT.JYOTHIS MARY
SMT.S.K.SREELAKSHMY

RESPONDENT/COMPLAINANT:

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

SRI.THOMAS SABU VADAKEKUT, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
9.9.2026 THE COURT ON 18.09.2026, PASSED THE FOLLOWING:

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

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

2. The applicant is the sole accused in Crime No.20/2026 of the Chelannur Excise Range Office, Kozhikode District. The offence alleged is punishable under Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act).

3. The prosecution case, in short, is that the applicant was found in possession of 11.78 grams of Methamphetamine kept in room No.4 on the ground floor of IQ room in building No.16/346 of Chelannur Panchayath, Amabalathukulangara Desom, Chelannur Village, Kozhikode Taluk in Kozhikode District, in contravention of the NDPS Act and thereby committed the offence.

4. I have heard Sri. M. Devesh, the learned counsel for the applicant and Sri. Thomas Sabu Vadakekut, the learned Public Prosecutor. Perused the case diary.

5. The learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the present case. The learned counsel further submitted that no



material is on record to connect the applicant with the alleged crime; hence, he is entitled to bail. The learned counsel further submitted that there are flagrant violations of the various provisions of the NDPS Act with respect to search, arrest and seizure. The counsel also submitted that the complete final report was not filed within the statutory period and hence the applicant is entitled to statutory bail under Section 187(2) of the BNSS. On the other hand, the learned Public Prosecutor submitted that the alleged incident occurred as a part of the intentional criminal acts of the applicant, and he is not entitled to bail at this stage. He further submitted that the final report was filed within the statutory period.

6. A perusal of the case diary would reveal that the accusation against the applicant is very serious, and it *prima facie* shows a premeditated criminal act on his part. The applicant had, on an earlier occasion, filed a bail application before this Court as B.A.No. 3851/2026. It was dismissed on merits. There is no change in circumstances after the dismissal of the earlier bail application. Considering the nature of the crime, the gravity of the offence, the complicity of the applicant in it, and the facts and circumstances mentioned above, I am of the view that the applicant is not entitled to bail on merits.

7. The applicant has further contended that he is entitled to statutory bail under Section 187(2) of the BNSS. He was



arrested on 08.06.2026 and has since remained in judicial custody. Since the offence under Section 22(b) of the NDPS Act prescribes a maximum punishment of ten years with fine, but no minimum term, the statutory right to bail accrues if the final report is not filed within sixty days from the date of custody (See ***Aboobacker Siddique v. State of Kerala***, 2026 (4) KHC 218). In the present case, the final report was admittedly filed on 21.07.2026 within the statutory period, but was returned as defective with a two-week period granted for rectification. The defect was cured, and the report was resubmitted only on 17.08.2026, whereas the time granted expired on 03.08.2026. The submission of the learned counsel for the applicant is that the investigating agency failed to comply with the time-limit to rectify the defects, and that the final report, having been tendered beyond sixty days of custody, entitles the applicant to statutory bail.

8. Default bail under Section 187 of the BNSS (Section 167 of the Cr.P.C.) is a right vested in every accused when the investigating agency fails to complete the investigation within the statutorily prescribed period. It is not merely a statutory entitlement but an indefeasible right flowing from Article 21 of the Constitution. An accused cannot be detained without submission of the charge sheet within sixty or ninety days, as the case may be. The provision thus accords primacy to personal liberty. At the same time, the right



to default bail, though valuable, is conditional upon the pendency of investigation. Once the investigation is completed by filing a final report containing the particulars mandated under Section 193(3) of the BNSS (173(2) of the Cr.P.C.), the question of a claim or grant for default bail does not arise [**Judgebir Singh v. National Investigation Agency**, (2023) 17 SCC 48]. In the present case, the final report was admittedly filed within the statutory period, but was returned as defective on account of a document being erroneously shown in the list of documents though not prepared or submitted. Upon curing the defect, the report was re-submitted with the explanation that the error was merely clerical. The submission of the learned counsel for the applicant, however, is that a defective final report cannot defeat the valuable right of default bail.

9. It is well-settled that the criterion for determining entitlement to default bail is the completion of investigation, not merely the filing of the final report. The expression 'final report' does not find mention in Section 167(2) of the Cr.P.C. or Section 187(2) of the BNSS. Thus, where the final report evidences completion of investigation in all respects, minor defects therein, by themselves, do not confer upon the accused a right to default bail. Conversely, if a report is filed without completing the investigation, in an attempt to circumvent the mandate of Section 187(2) BNSS



(167(2) Cr.P.C.), and is returned for further investigation, the accused would be entitled to demand release on default bail if the completed final report is not re-submitted within the statutory period (**Vimal K. Mohanan v. State of Kerala**, 2023 (2) KLT 214). Where a final report is returned only for curing formal defects, the permission granted is to rectify such defects. Once cured and re-presented without any further investigation, the re-submission relates back to the original date of filing. It is immaterial whether the defect is cured within the period granted by the Court. Accordingly, I hold that where the final report is filed within the statutory period under Section 187 of the BNSS, and returned only for formal defects, its re-submission after curing such defects must be treated as within time, even if effected after expiry of the statutory period.

As already noted, the chargesheet in the present case was submitted within the statutory period of sixty days from the date of the applicant's custody, in compliance with the form prescribed under Section 193(3) of the BNSS. It was returned only because certain documents unconnected with the case had been inadvertently appended, which defect was subsequently cured. The investigation itself was complete in all respects. In **Central Bureau of Investigation v. Kapil Wadhawan** [(2024) 3 SCC 734], the Supreme Court held that even where all documents relied upon by



the prosecution are not filed along with the chargesheet, such omission does not invalidate or vitiate the chargesheet. Likewise, in ***Narendra Kumar Amin v. Central Bureau of Investigation and Others*** [(2015) 3 SCC 417], the plea for default bail on the ground that the chargesheet had not been filed with the full set of documents was rejected, the Court observing that compliance with Section 173(2) of the Cr.P.C. suffices to defeat such a claim. More recently, in ***Shaurya Sunil Kumar Singh v. Central Bureau of Investigation*** [2026 KHC OnLine 6495], it was reiterated that mere non-filing of additional copies of the chargesheet or police report does not entitle the accused to default bail; the right arises only when the chargesheet itself is not filed within the prescribed period of sixty or ninety days. Once the chargesheet is filed within that period, in conformity with Section 193(3) of BNSS, the right to default bail ceases.

For all these reasons, I hold that the applicant has failed to establish entitlement to statutory bail. The bail application is accordingly dismissed.

Sd/-

DR. KAUSER EDAPPAGATH

JUDGE

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APPENDIX OF BAIL APPL. NO. 4931 OF 2026

PETITIONER ANNEXURES

Annexure A1	THE TRUE COPY OF THE FIR AND FIS DATED 08.06.2026 IN NDPS CRIME NO.20/2026 ON THE FILE OF THE CHELANNUR EXCISE RANGE OFFICE
Annexure A2	.THE TRUE COPY OF ORDER DATED 30/07/2026 IN BA 3851/2026
Annexure A3	THE TRUE COPY OF ORDER DATED 19/08/2026 IN CRL MP 02/20206 ON THE FILES OF THE NDPS COURT VADAKARA