

B.A.No. 1388 of 2026

..1..



2026:KER:24697

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

THURSDAY, THE 19TH DAY OF MARCH 2026 / 28TH PHALGUNA, 1947

BAIL APPL. NO. 1388 OF 2026

CRIME NO.27/2026 OF MEDICAL COLLEGE POLICE STATION, KOZHIKODE

PETITIONER/ACCUSED:

ARUN KUMAR.P,
AGED 28 YEARS
PULIKKAL HOUSE,
THALIKKULANGARA,
POKKUNNU, MANKAVU,
KOZHIKODE DISTRICT, PIN - 673007

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

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM DISTRICT, PIN - 682031
- 2 THE STATION HOUSE OFFICER,
MEDICAL COLLEGE POLICE STATION,
KOZHIKODE, VELLIPARAMBA,
KOZHIKODE DISTRICT, PIN - 673008

B.A.No. 1388 of 2026

..2..



2026:KER:24697

SMT.SREEJA V. , SR. PP

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
19.03.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

B.A.No. 1388 of 2026

..3..



2026:KER:24697

"C.R."

ORDER

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

2. The applicant is the accused in Crime No.27/2026 of Medical College Police Station, Kozhikode District. The offence alleged is punishable under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. The prosecution case, in short, is that on 08.01.2026, at about 08:44 a.m., the applicant was found in possession of 194.99 grams of MDMA in a road near Koor Cochin Bakery and thereby committed the offence.

4. I have heard Sri.P.Mohamed Sabah, the learned counsel for the applicant and Smt.V.Sreeja, the learned Senior Public Prosecutor. Perused the case diary.

5. The learned counsel appearing for the applicant submitted that the requirement of informing the arrested

B.A.No. 1388 of 2026

..4..



2026:KER:24697

person of the grounds of arrest is mandatory under Article 22(1) of the Constitution of India and Section 47 of the BNSS, and since the applicant was not furnished with the grounds of arrest, his arrest was illegal and he is liable to be released on bail. On the other hand, the learned Senior Public Prosecutor submitted that all legal formalities were complied with in accordance with Chapter V of the BNSS at the time of the arrest of the applicant. It is further submitted that the alleged incident occurred as part of the intentional criminal acts of the applicant and hence he is not entitled to bail at this stage.

6. The applicant was arrested on 08.01.2026, and since then, he has been in judicial custody.

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

8. Chapter V of BNSS, 2023, deals with the arrest of persons. Sub-section (1) of Section 35 of BNSS lists cases where police may arrest a person without a warrant. Section

B.A.No. 1388 of 2026

..5..



2026:KER:24697

47 of BNSS clearly states that every police officer or other person arresting any person without a warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest. Article 22(1) of the Constitution of India provides that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. Thus, the requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory statutory and constitutional requirement. Noncompliance with Article 22(1) of the Constitution will be a violation of the fundamental right of the accused guaranteed by the said Article. It will also amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution.

9. The question whether the failure to communicate the written grounds of arrest would render the arrest illegal, necessitating the release of the accused, is no longer res integra. In ***Pankaj Bansal v. Union of India and Others*** [(2024) 7 SCC 576] and ***Prabir Purkayastha v. State (NCT***

B.A.No. 1388 of 2026

..6..



2026:KER:24697

of Delhi) [(2024) 8 SCC 254], the Supreme Court has held that the requirement of informing a person of the written grounds of arrest in writing is a mandatory requirement under Article 22(1) of the Constitution and Section 47 of the BNSS and absence of the same would render the arrest illegal. Later in **Vihaan Kumar v. State of Haryana and Others** (2025 SCC OnLine SC 269), it was reiterated that the requirement of informing the person arrested of the grounds of arrest is not a formality, but a mandatory constitutional requirement. However, it was observed that there is no mandatory requirement to communicate the grounds of arrest in writing. Recently, in **Mihir Rajesh Shah v. State of Maharashtra and Another** (2025 SCC OnLine SC 2356), the three Judge Bench of the Supreme Court after referring to all the three decisions mentioned above held that the grounds of arrest must be informed to the arrested person in each and every case without exception, and the mode of communication of such grounds must be in writing in the language he understands. So far as the cases under the NDPS Act are

B.A.No. 1388 of 2026

..7..



2026:KER:24697

concerned, a Single Bench of this Court in **Yazin .S. v. State of Kerala** (2025 KHC OnLine 2383), **Rayees R.M. v. State of Kerala** (2025 KHC 2086), and **Vishnu N.P. v. State of Kerala** (2025 KHC OnLine 1262) took the view that the specification of the quantity of the contraband seized is mandatory for the effective communication of the grounds of arrest.

I reviewed the case diary, which contains notices served on the applicant and his relative under Sections 47 and 48 of BNSS. These notices show that specific grounds and reasons for arrest were communicated to both the applicant and his relative. The learned counsel for the applicant argued that, although separate grounds for arrest were provided to each, there was no mention of the quantity of contraband seized from the applicant. It is true that the notices do not specify the quantity seized. However, it is explicitly stated that what was seized was a commercial quantity. The object of mentioning the quantity is to enable the accused to identify whether the offence is bailable or non-bailable, and whether

B.A.No. 1388 of 2026

..8..



2026:KER:24697

the quantity involved is small, intermediate, or commercial. Therefore, if the grounds for arrest state that the quantity seized is an intermediate or commercial quantity, that suffices to comply with Sections 47 and 48 of BNSS, even if the exact quantity is not specified. Thus, there has been proper communication of the grounds of arrest to the applicant and his relative. The bail application is, therefore, dismissed.

Sd/-
DR. KAUSER EDAPPAGATH,
JUDGE

APA

B.A.No. 1388 of 2026

..9..



2026:KER:24697

APPENDIX OF BAIL APPL. NO. 1388 OF 2026

PETITIONER ANNEXURES

- ANNEXURE 1 TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO. 27/2026 OF MEDICAL COLLEGE POLICE STATION
- ANNEXURE 2 TRUE COPY OF THE ARREST MEMO IN CRIME NO. 27/2026 OF MEDICAL COLLEGE POLICE STATION
- ANNEXURE 3 TRUE COPY OF THE NOTICE TO INFORM THE ARRESTEE THE GROUNDS AND REASON FOR ARREST U/S 47 & 35(1) (B) (II) OF BNSS
- ANNEXURE 4 TRUE COPY OF THE ORDER DATED 27.02.2026 IN CRL.M.P. NO.02/2026 IN CRIME NO. 27/2026 OF MEDICAL COLLEGE POLICE STATION, PASSED BY THE SPECIAL JUDGE (NDPS ACT CASES) VATAKARA