



B.A.No.12346 of 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 18<sup>TH</sup> DAY OF DECEMBER 2025 / 27TH AGRAHAYANA,  
1947

BAIL APPL. NO. 12346 OF 2025

CRIME NO.56/2025 OF Kunnamangalam Police Station, Kozhikode  
AGAINST THE ORDER DATED 24.09.2025 IN Bail Appl.  
NO.10450 OF 2025 OF HIGH COURT OF KERALA

PETITIONER/ACCUSED NOS. 9 & 11:

- 1 DAVID NTEMI KILEKAMAJENGA  
AGED 22 YEARS,  
S/O NTEMI N. KILEMAMAJENGA, THE HIGH COURT OF  
TANZANIA, MWANZA HIGH COURT SUB REGISTRY, 6 NIDA  
ROAD, P.O. BOX NO. 1492, MWANZA, TANZANIA,  
CURRENTLY RESIDING AT C/O ROHIT KUMAR, M/S  
APARTMENTS, PLOT NO. 64, GREEN VALLY, VPO MAHERU  
PHAGWARA, KAPURTHALA, PUNJAB, INDIA.,  
PIN - 144411
- 2 ATKA HARUNA MYONGA,  
AGED 21 YEARS,  
D/O HARUNA S. MAYONGA, MWALIMU NYERERE FOUNDATION  
BUILDING, SOKOINE DRIVE, P.O. BOX NO. 1629 DAR ES  
SALAAM, TANZANIA, CURRENTLY RESIDING AT C/O  
SURPREET SINGH MGON ASAP ROOMS, 122 F-34,  
UNIVERSITY VIEW ESTATE, MAHERU PHAGWARA,  
KAPURTHALA, PUNJAB, INDIA., PIN - 144411

BY ADVS.  
SRI.SHAIJAN C.GEORGE  
SMT.ARLISS TRENCY ANTONY  
SHRI.VINAI JOHN



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SHRI.AJAY RAMESH

**RESPONDENT/COMPLAINANT:**

- 1 STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM,  
PIN - 682031
- 2 THE STATION HOUSE OFFICER  
KUNNAMANGALAM POLICE STATION, KOZHIKODE,  
PIN - 673571

BY ADV.  
SRI.G.SUDHEER, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
18.12.2025, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



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**BECHU KURIAN THOMAS, J.**-----  
B.A. No.12346 of 2025  
-----Dated this the 18<sup>th</sup> day of December, 2025**ORDER**

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

2. Petitioners were initially arrayed as accused Nos. 7 and 8 in Crime No.56/2025 of Kunnamangalam Police Station, Kozhikode, and are now arrayed as accused Nos. 9 and 11 respectively. The offences alleged against the accused in the above crime are punishable under Section 22(c) r/w Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act').

3. The prosecution case is that on 21.01.2025, accused 1 and 2 were found in possession of 221.89 grams of MDMA in a room in a lodge, and on initial investigation, it was revealed that several other accused were involved in the case. Petitioners were roped in as accused alleging that they financed the procurement of the contraband and on that basis they were arrested on 13.03.2025 and they have been in custody since



then.

4. Sri. Shaijan C. George, the learned counsel for the petitioners submitted that the grounds for arrest were not communicated to the petitioners at the time of their arrest and also that there was a conscious delay in producing them after obtaining a transit remand order and hence, the petitioners ought to be released on bail. The learned counsel further submitted that after the final report was filed on 13.08.2025, the prosecution case has been crystallized which reveals that the only material to connect the petitioners with the alleged offence is a transaction of Rs.42,500/- (Rupees Forty Two Thousand and Five Hundred only) between the 2<sup>nd</sup> accused and the 9<sup>th</sup> accused, which by itself cannot implicate the petitioners in any crime, that too for the offence under the NDPS Act. The learned counsel further submitted that, period of custody already undergone by them and the fact that petitioners are foreign nationals, studying in a professional college in Punjab should also be taken into consideration for grant of bail.

5. The learned Public Prosecutor, on the other hand, submitted that the allegations against the petitioners are very serious and the investigation had revealed the money trail



between the 2<sup>nd</sup> accused and the 9<sup>th</sup> accused, as well as the 11<sup>th</sup> accused and therefore, releasing the petitioners on bail would be prejudicial to the prosecution case itself. It was also submitted that though petitioners claim themselves to be students, their dealings with the other drug peddlers clearly indicate their involvement in the crime and therefore, the bail application ought to be dismissed.

6. I have considered the rival submissions.

7. On an earlier occasion, this Court had dismissed the bail application of the petitioners, as per order dated 09.06.2025, after observing that the prosecution alleges that more than Rs.50 lakhs had been credited into the account of the 2<sup>nd</sup> petitioner within a period of four months from one of the suspects, and that, since the petitioners belong to different nationalities, the investigation would be prejudice and the details of the drug racket in which they were allegedly involved in, may not be able to be identified, if they were released on bail. Subsequently, the final report has been filed on 13.08.2025. The transit remand order, which is produced as Annexure A16, mentions the various documents that were produced before the Judicial First Class Magistrate at Phagwara, from where the



petitioners were arrested. The details of the records produced by the investigating officer before the learned Magistrate do not indicate any material to show that the grounds for arrest were communicated at the time of arrest at Phagwara. In the remand order dated 15.03.2025 by the Jurisdictional Magistrate at Kozhikode (the accused were produced before the JFCM - I, Kozhikode, since the JFCM, Kunnamangalam was on leave on 15.03.2025), though there is a reference that the formalities regarding arrest was seen complied with, no specific reference was made as to whether the grounds for arrest were communicated or not. No documents were also noticed as having been produced.

8. In this context, it is necessary to refer to the decision **Mihir Rajesh Shah v. State of Maharashtra and Another** [2025 INSC 1288] wherein it was observed that “the written grounds of arrest must be furnished to the arrestee on his arrest”. It is also observed that in exceptional circumstances oral communication would be sufficient, at the time of arrest, however, a written copy of grounds of arrest must be supplied within a reasonable time and “in no event later than two hours prior to production of the arrestee before the Magistrate for



remand proceedings. The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the Magistrate.”

9. It is evident from Annexure A16 that the petitioners were produced before the remand Magistrate at Phagwara, and the grounds for arrest are not seen to have been furnished to them.

10. Apart the above, since the final report has already been filed, a perusal of the same reveals, as rightly contended by the learned counsel for the petitioners, that the only material to connect the petitioners with the offence alleged and the other accused is the financial transaction between the 2<sup>nd</sup> accused and the 9<sup>th</sup> accused through Canara Bank, NRI account. The amount transferred is stated to be Rs.42,500/-. The final report does not indicate any other material to connect the petitioners with the offence alleged or with the other accused.

11. In the decision in **Mohd. Muslim Alias Hussain v. State (NCT of Delhi)** ((2023) 18 SCC 166), the Supreme Court had observed that mere financial transactions between the accused cannot be a reason to implicate them in the crime under the NDPS Act and the financial transactions can only be used to



corroborate the evidence otherwise available.

12. Though the learned counsel for the petitioners further raised contentions regarding violation of the Consular Right of access and intimation as laid down in the Vienna Convention, those contentions are not necessary to be considered in this order and the same are left open.

13. Since, the prosecution has not been able to produce any material other than the financial transaction to indicate that the petitioners are involved in the crime, I am of the view that there are no reasonable grounds for believing that the petitioners are guilty of the offence alleged. Since, no criminal antecedents have been reported against the petitioners, I am also of the view that the rigour under Section 37 of the NDPS Act stands diluted.

14. Apart from the above, the petitioners, who are foreign nationals and students of a professional college, have been in custody from 13.03.2025. They have been in custody for more than 270 days. Considering the entire circumstances, I am of the view that the petitioners are required to be released on bail.

In the result, this application is allowed on the following





conditions:-

- (a) Petitioners shall be released on bail on them executing a bond for Rs.1,00,000/- (Rupees One Lakh only) each, with two solvent sureties each for the like sum to the satisfaction of the court having jurisdiction.
- (b) Petitioners shall co-operate with the trial of the case.
- (c) Petitioners shall not commit any similar offences while they are on bail.
- (d) Petitioners shall not leave the country without the permission of the jurisdictional Court.
- (e) Petitioners shall report before the SHO Satnamprua Police Station, Phagwara, between 10.00 a.m. and 11.00 a.m. on the fourth Saturday of every month until conclusion of trial.
- (f) Petitioners shall intimate the details of their travel, if any they undertake, to the investigating officer in writing through e-mail and shall also file an affidavit giving the details of their mobile phone numbers and address of the residence at Punjab.
- (g) Petitioners shall surrender their passports before the Jurisdictional Magistrate and if in case the passports are required for the purposes of extending the VISA, necessary applications can be moved before the Jurisdictional Court. Appropriate orders can be passed by the said Court, if any such applications are filed.

In case of violation of any of the above conditions or if any modification or deletion of the conditions are required, the jurisdictional Court shall be empowered to consider such applications, if any, and pass appropriate orders in accordance



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with law, notwithstanding the bail having been granted by this Court.

**Sd/-  
BECHU KURIAN THOMAS  
JUDGE**

VPK



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**APPENDIX OF BAIL APPL. NO. 12346 OF 2025****PETITIONER ANNEXURES**

<b>Annexure A1</b>	<b>TRUE COPY OF THE FIR IN CR. NO. 56/2025 OF KUNNAMANGALAM POLICE STATION, KOZHIKODE DATED 21.01.2025</b>
<b>Annexure A2</b>	<b>A TRUE COPY OF THE FI STATEMENT IN CR. NO. 56/2025 OF KUNNAMANGALAM POLICE STATION.</b>
<b>Annexure A3</b>	<b>TRUE COPY OF THE INSPECTION MEMO PERTAINING TO THE FIRST PETITIONER</b>
<b>Annexure A4</b>	<b>TRUE COPY OF THE INSPECTION MEMO PERTAINING TO THE SECOND PETITIONER</b>
<b>Annexure A5</b>	<b>TRUE COPY OF THE ARREST MEMO PERTAINING TO THE SECOND PETITIONER</b>
<b>Annexure A6</b>	<b>TRUE COPY OF THE ARREST MEMO PERTAINING TO THE FIRST PETITIONER</b>
<b>Annexure A7</b>	<b>TRUE COPY OF THE REMAND REPORT PERTAINING TO THE PETITIONERS DATED 15.03.2025 ALONG WITH THE ENDORSEMENT OF THE LEARNED MAGISTRATE</b>
<b>Annexure A8</b>	<b>A TYPEWRITTEN COPY OF THE REMAND ORDER DATED 15.03.2025</b>
<b>Annexure A9</b>	<b>TRUE COPY OF THE ORDER IN C.M.P. NO. 515/2025 DATED 16.04.2025</b>
<b>Annexure A10</b>	<b>TRUE COPY OF THE ORDER IN B.A. NO. 6211/2025 DATED 09.06.2025</b>
<b>Annexure A11</b>	<b>TRUE COPY OF THE VCCR TREATY</b>
<b>Annexure A12</b>	<b>RELEVANT PAGES CONTAINING THE COVER PAGE AND CHAPTER 9 OF THE PUTHUCHERRY POLICE MANUAL</b>



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Annexure A13	TRUE COPY OF CHAPTER 12 FROM DRUG ENFORCEMENT FIELD OFFICER'S HANDBOOK
Annexure A14	TRUE COPY OF THE CIRCULAR NO. 14/2020 DATED 14.04.2020
Annexure A15	TRUE COPY OF THE JUDGMENT IN B.A. NO. 10450/2025 DATED 24.09.2025
Annexure A16	COPY OF TRANSIT WARRANT ORDER IN CRM 70/2025
Annexure A17	FINAL REPORT IN CR.NO.56/2025 OF KUNNAMANGALAM POLICE STATION
Annexure A18	LIST OF WITNESSES & MEMO OF EVIDENCE IN CR.NO.56/2025