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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 30TH DAY OF JUNE 2026 / 9TH ASHADHA, 1948

BAIL APPL. NO. 3207 OF 2026

CRIME NO.427/2026 OF TOWN WEST POLICE STATION, THRISSUR

PETITIONERS/1st and 2nd ACCUSED:

- 1 NITHIN K.A
AGED 34 YEARS, S/O PRABHAKARAN,
KARUVATHIL HOUSE, PIN - 680012
- 2 VAISHNAV
AGED 24 YEARS, S/O GIRIVASAN,
MARAT HOUSE, ALAPATT,
THRISSUR, PIN - 680641

BY ADV SHRI.RICHARD BABU

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT, ERNAKULAM, PIN - 682031
- 2 STATION HOUSE OFFICER
TOWN WEST POLICE STATION,
PIN - 680003

SRI.V. VINAY, SR. PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30.06.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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"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 applicants are the accused Nos. 1 and 2 in Crime No.427/2026 of Town West Police Station, Thrissur District. The offences alleged are punishable under Sections 22(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, NDPS Act).

3. The prosecution case, in short, is that the applicants were found in possession of 3 grams of MDMA at the rented house of the accused No.1, which was kept for sale and thereby committed the aforementioned offences.

4. I have heard Sri.Richard Babu, the learned counsel for the applicants and Sri.V.Vinay, the learned

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Senior Public Prosecutor. Perused the case diary.

5. The learned counsel for the applicants submitted that the applicants are innocent and have been falsely implicated in the present case. The learned counsel further submitted that the grounds of arrest were not properly communicated to the applicants' relatives in terms of Section 48 of the BNSS. The counsel also submitted that no materials are on record to connect the applicants with the alleged crime; hence, they are entitled to bail. On the other hand, the learned Senior Public Prosecutor submitted that the alleged incident occurred as a part of the intentional criminal acts of the applicants, and they are not entitled to bail at this stage. The learned Senior Public Prosecutor further submitted that there is no infraction of Article 22(1) of the Constitution or Section 48 of the BNSS, as alleged by the applicant.

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6. Though *prima facie* there are materials on record to connect the applicants with the crime, since the applicants have raised a question of absence of communication of the grounds of their arrest, let me consider the same.

7. It is now well settled that the requirement of informing a person of the grounds for arrest is a mandatory requirement of Article 22(1) of the Constitution and Section 47 of BNSS, and absence of the same would render the arrest illegal [See. **Pankaj Bansal v. Union of India and Others** [(2024) 7 SCC 576], **Prabir Purkayastha v. State (NCT of Delhi)** [(2024) 8 SCC 254], **Vihaan Kumar v. State of Haryana and Others** (2025 SCC OnLine SC 269] and **Mihir Rajesh Shah v. State of Maharashtra and Another** (2025 SCC OnLine SC 2356)]. The Supreme Court in **Kasireddy Upender Reddy v. State of Andhra Pradesh** (2025

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SCC OnLine SC 1228) has held that the grounds of arrest should not only be provided to the arrestee but also to his family members and relatives so that necessary arrangements are made to secure the release of the person arrested at the earliest possible opportunity to make the mandate of Art.22(1) meaningful and effective, failing which, such arrest would be rendered illegal. A learned Single Judge of this Court in ***Alvin Riby v. State of Kerala*** (2025 KER 67079), following ***Kasireddy Upender Reddy*** (supra) held that failure to communicate the grounds of arrest to the near relatives renders the arrest illegal. So far as the cases under the NDPS Act are concerned, this Court has consistently held that the specification of the quantity of the contraband seized is mandatory for the effective communication of the grounds of arrest [***Yazin .S. v. State of Kerala*** (2025 KHC OnLine 2383), ***Rayees R.M. v. State of***

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Kerala (2025 KHC 2086), and **Akhil Santhosh v. State of Kerala** (2026 KHC OnLine 1649)].

8. Annexures 3 and 4 are notices of information of arrest issued under Section 48 of the BNSS. These documents demonstrate that the grounds of arrest were duly communicated to the applicants' counsel. The contention advanced by learned counsel for the applicants is that such grounds must necessarily be conveyed to the relatives or friends of the applicants, and that communication to their counsel is inadequate. I cannot subscribe to the said argument.

9. Section 48 of the BNSS deals with the obligation of person making arrest to inform about arrest, etc., to a relative or friend. It reads as follows:-

"Obligation of person making arrest to inform about arrest, etc., to relative or friend.

48. (1) Every police officer or other person making any arrest under this Sanhita shall

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forthwith give the information regarding such arrest and place where the arrested person is being held to any of his relatives, friends or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information and also to the designated police officer in the district.

(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.

(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as the State Government may, by rules, provide.

(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirements of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person."

Sub-section (1) of Section 48 of the BNSS unequivocally mandates that intimation of arrest shall be furnished either to a relative or friend of the arrestee or to any other person disclosed or nominated by the arrestee.

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Where the arrested person nominates his advocate for such intimation and notice of arrest under Section 48 is duly served upon the advocate, the requirement of the statute stands satisfied. A perusal of Annexure-2 remand report reveals that, in accordance with the applicants' request, notices under Section 48 were issued to their advocate. The statutory obligation under Section 48 is thus duly complied with. Consequently, the bail is dismissed.

Sd/-
DR. KAUSER EDAPPAGATH,
JUDGE

APA

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APPENDIX OF BAIL APPL. NO. 3207 OF 2026

PETITIONER ANNEXURES

- | | |
|------------|---|
| ANNEXURE-1 | A TRUE COPY OF THE FIR, DATED 03.06.2026, IN
CRIME NO. 427/2026 OF THE WEST POLICE STATION
THRISSUR |
| ANNEXURE-2 | A TRUE COPY OF THE REMAND REPORT OF THE
PETITIONERS DATED 03.06.2026. |
| ANNEXURE-3 | SECTION 48 BNSS NOTICE OF THE 1ST ACCUSED DATED
04.06.2026 |
| ANNEXURE-4 | SECTION 48 BNSS NOTICE OF THE 2ND ACCUSED DATED
04.06.2026 |