



2026:KER:69467

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 11TH DAY OF SEPTEMBER 2026 / 20TH BHADRA, 1948BAIL APPL. NO. 4885 OF 2026

CRIME NO.12/2026 OF VACB, IDUKKI, Idukki

PETITIONER/ACCUSED:

JOSE M.P.
AGED 56 YEARS
MATTAPILLY H, KARAYAMPARAMBU, KARUKUTTY VILLAGE,
ALUVA TALUK, ERNAKULAM, PIN - 683576

BY ADVS.
SRI.V.JOHN SEBASTIAN RALPH
SHRI.VISHNU CHANDRAN
SHRI. RALPH RETI JOHN
SHRI.GIRIDHAR KRISHNA KUMAR
SMT.GEETHU T.A.
SMT.MARY GREESHMA
SMT.LIZ JOHNY
SMT.KRISHNAPRIYA SREEKUMAR
SHRI.ABHIJITH P.S
SMT.DEVIKA MANOJ
SHRI.ASHUTHOSH P. KAMATH

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE SPECIAL PUBLIC PROSECUTOR
(VIGILANCE) , HIGH COURT OF KERALA, ERNAKULAM, PIN -
682031

SR PP ROY THOMAS (MUVATTUPUZHA)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
11.09.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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'C.R'

ORDERDated this the 11th day of September, 2026

The bail application has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking regular bail and the petitioner herein is the sole accused in Crime No. 12/2026 registered by VACB, Idukki.

2. Heard the learned counsel for the petitioner as well as the learned Public Prosecutor appearing for State of Keralam; in detail.

3. Here the prosecution alleges commission of offences punishable under Sections 7(a), 7(b) of the Prevention of Corruption (Amendment) Act, 2018 and under Section 351(2) of the Bharatiya Nyaya Sanhita, by the petitioner, who is the sole accused in this crime.

4. The prosecution case is that the petitioner while working as Assistant Executive Engineer, Thodupuzha Municipality and as such being a public servant demand of Rs.1,50,000/- as illegal gratification from the complainant for the issuance of completion certificate in respect of the newly constructed building of Ayurvedic Hospital, Kalimadam, functioning in Chungam Kara, Thodupuzha, owned by him. The further case of the prosecution is that in continuation of the said demand as on 27.07.2026, the petitioner/accused demanded and accepted Rs.75,000/- as part of trap



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and was nabbed by the Dy.SP, red handed on the date of trap.

5. The learned counsel for the petitioner submitted that the petitioner is innocent and has been in custody from 27.07.2026. It is also pointed out that the petitioner has no other criminal antecedents and his custodial interrogation also is over.

6. The learned Public Prosecutor though opposed bail pointing out the seriousness of the offences, he has fairly conceded that the petitioner has no criminal antecedents and he was arrested on 27.07.2026.

7. On perusal of the prosecution allegations along with the report, the Investigating Officer stated as under:

“It is humbly submitted that the investigation of this case is in its initial stages. A detailed investigation is required to ascertain whether the accused have engaged in other unlawful activities involving other Thodupuzha Municipal Officials. More witnesses need to be questioned, related documents need to be seized, and details regarding the properties of the accused and their relatives need to be collected.

It is respectfully submitted that after registering this case, another complaint received before the Vigilance Idukki unit alleging that the petitioner accepted illegal gratification from different persons.”

8. Before adverting the question as to whether bail is liable to be granted to the petitioner, this Court is inclined to address a



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vital issue which would require urgent consideration. It is noticed in abundance that many accused persons arrested and produced before the courts were set at free for non-compliance of the formalities of arrest. In some cases, the courts are granting bail on finding the arrest as illegal for non-compliance of the formalities of arrest, particularly, non issuance of prior notice to the accused and non-furnishing of grounds of arrest to the accused. In this connection, it is held that when the arrest is found to be illegal for non-compliance of the formalities of arrest, there is no arrest or custody in the eye of law and thereby the accused would be relegated to the stage before his arrest. The rationale is that a person without a legal arrest is either in the Police custody or in the custody of the court, when produced before the court to release him on bail. Then grant of bail doesn't arise. Therefore, granting bail to an accused produced before the court, finding the arrest as illegal, would not get support from statutory provisions and the courts should not follow the said wrong procedure. Then the course open for the court is to set the accused person free at the stage before his arrest. While doing so, in the same order itself the court freeing the accused, produced before the court, shall pass an order to the effect that the release of the accused for non-compliance of the formalities of the arrest shall not be a rider for the arrest of the accused so released by the Police on complying the formalities of the arrest permitting the



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police to arrest the accused so freed, again. In this connection, it is pertinent to note that the Criminal Courts in the District Judiciary in the State are specifically directed to ensure that when an accused was arrested and produced before the court without complying the formalities of arrest the court shall ensure compliance of the formalities of arrest before his remand, (see the directions issued in the decision reported in **[2026 (2) KHC 523] Ashokan K.A v. State of Kerala**) and in the event the formalities could not be completed, by the time available, the Court shall release the accused at his liberty forthwith without granting bail and executing bail bond. Despite the specific directions, lacuna in complying the said directions to be noticed in wide magnitude. Some Investigating Officers are purposely exploiting this situation to free the accused, who had interest on him, with ulterior motives. Therefore, all Criminal Courts in the District Judiciary of the State are specifically directed to comply the above directions, without fail hereafter. Similarly, all Criminal Courts shall ensure that while setting an accused at his liberty, finding his arrest as illegal, the Courts shall pass an order on the date of release of the accused itself to the effect that the release of the accused for non-compliance of the formalities of arrest will not stand in the way of arresting the accused by the Investigating Officer, again, on completing the formalities of arrest and the courts must grant permission to the Investigating Officer



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to arrest the released accused again, on the same day, as per law. In the same way, the directions issued in **Ashokan K.A.'s case** (*supra*) also must be complied without fail.

9. Coming back, the petitioner herein, who has no criminal antecedents has been in custody from 27.07.2026, where the investigation has achieved much progress. Thus further custody of the petitioner, for the purpose of investigation is not necessary and he can be enlarged on bail and the request for further questioning sought for the Investigating Officer can be ensured by imposing necessary conditions. Therefore, this petition stands allowed. The petitioner is enlarged on bail on conditions:

i. The petitioner shall be released on bail on executing bond for Rs.1,00,000/- (Rupees One lakh Only) with two solvent sureties, each for the like amount to the satisfaction of the Jurisdictional court concerned.

ii. The petitioner shall not intimidate the witnesses or tamper with evidence. He shall co-operate with the investigation and shall be available for trial.

iii. The petitioner shall appear before the Investigating Officer as and when directed, apart from appearing before the Investigating Officer on all Mondays between 9 am and 10 am, for a period of three months or till the completion of



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investigation, whichever is earlier.

iv. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of this case, so as to dissuade him from disclosing such facts to the court or to any police officer.

v. The petitioner shall not involve in any other offence during the currency of bail and any such event, if reported or came to the notice of this court, the same alone shall be a reason to cancel the bail hereby granted.

vi. The petitioner shall not leave the jurisdiction of the Jurisdictional Court without prior permission of the Jurisdictional Court.

vii. Violation of any of the conditions imposed shall result in cancellation of bail hereby granted.

Registry is directed to forward a copy of the order to all Criminal Courts in the State for information with specific direction to comply the directions issued by this Court in paragraph No.8 of the order without fail, hereafter.

**Sd/-A.BADHARUDEEN,
JUDGE**

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APPENDIX OF BAIL APPL. NO. 4885 OF 2026

PETITIONER ANNEXURES

- Annexure 1 TRUE COPY OF THE FIR IN CRIME NO. VC 12/2026/IDK OF THE VIGILANCE AND ANTI-CORRUPTION BUREAU, IDUKKI
- Annexure 2 TRUE COPY OF THE ORDER IN CRL. MP. 1707/2026 ON THE FILES OF THE HON'BLE COURT OF THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE (VIGILANCE), MUVATTUPUZHA
- Annexure 3 TRUE COPY OF THE ORDER IN CRL. MP. 1841 / 2026 ON THE FILES OF THE HON'BLE COURT OF THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE (VIGILANCE), MUVATTUPUZHA