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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 10TH DAY OF FEBRUARY 2026 / 21ST MAGHA, 1947

BAIL APPL. NO. 12588 OF 2025

CRIME NO.56/2025 OF Kunnamangalam Police Station,
Kozhikode

SC No.212 of 2025 on the file of Court of the Special
Judge (NDPS Act Cases) Vatakara

PETITIONER/ACCUSED NO.1 (IN CUSTODY FROM 20.5.2025):

IMRAN @ HAMSATH IKTHIYAR @ IRSHAD
AGED 30 YEARS
S/O LATE ABHUBACKER, MUDIPPU HECHKAL PANCHAYATH,
MANGALURU, KARNATAKA, PIN - 574153

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 AND COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM DISTRICT, PIN - 682031
- 2 THE STATION HOUSE OFFICER
KUNNAMANGALAM POLICE STATION, KUNNAMANGALAM P.O,
KOZHICODE DISTRICT, PIN - 673571

SRI.K.A.NOUSHAD, SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
3.02.2026, THE COURT ON 10.02.2026 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 applicant is the accused No.1 in Crime No.56/2025 of Kunnamangalam Police Station, Kozhikode District. The offences alleged are punishable under Sections 22(c), 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').

3. The prosecution case, in short, is that on 21/1/2025 at 12.50 p.m, the accused Nos. 1 and 2 were found in possession of 221.89 grams of MDMA inside an almirah in room No.208 of Hotel VR Residency, Karanthur, Kunnamangalam, for sale and thereby committed the aforementioned offences.

4. I have heard Sri.P.Mohamed Sabah, the learned counsel for the applicant and Sri.K.A.Noushad, 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 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



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was illegal and he is liable to be released on bail. On the other hand, the learned 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 20/5/2025, 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 when police may arrest a person without a warrant. Section 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



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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 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



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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 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.

The learned counsel for the applicant vehemently argued that the notice informing the written grounds of arrest issued to the applicant under Sections 47 and 35(1)(b)(ii) of the BNSS does not contain the quantity of the contraband seized, and therefore, the arrest was vitiated. Indeed, the said notice does not mention the quantity of the contraband involved in the case. However, it is relevant to note that no contraband was seized from the possession of the applicant. The contraband was seized from the possession of accused Nos.3 and 8. The specific allegation against the applicant is that he supplied the contraband involved in the case to accused Nos.3 and 8 from Bangalore and stayed with them in a lodge at Bangalore. This specific allegation against the applicant is clearly mentioned in



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the notice issued to him under Section 47 of the BNSS. The ruling in *Yazin* (supra), *Rayees* (supra), and *Vishnu* (supra) that, in crimes registered under the NDPS Act, communication of the quantity of the contraband seized is mandatory, cannot be interpreted to mean that it applies to all accused regardless of their complicity in the crime. The specification of the quantity of contraband seized needs to be communicated only to those accused from whose possession the contraband was seized. As for the other accused, from whom no contraband was seized but who are otherwise involved in the crime, it is sufficient if their role in the crime and the grounds for their arrest are communicated to them. As already stated, the specific role of the applicant in the crime and the detailed grounds for his arrest are mentioned in the notice issued to him under Sections 47 and 35(1)(b)(ii) of the NDPS Act. Therefore, I find that there is satisfactory compliance with Section 47 of the BNSS and Article 22(1) of the Constitution of India. The bail application is accordingly dismissed.

sd/-

DR. KAUSER EDAPPAGATH

JUDGE

Rp



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APPENDIX OF BAIL APPL. NO. 12588 OF 2025

PETITIONER ANNEXURES

- Annexure 1** TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO. 56/2025 OF KUNNAMANGALAM POLICE STATION, KOZHIKODE DISTRICT
- Annexure 2** TRUE COPY OF THE ORDER DATED 23.08.2025 IN BA NO. 9916 OF 2025 PASSED BY THIS HON'BLE COURT
- Annexure 3** TRUE COPY OF THE ORDER DATED 23.09.2025 IN BA NO. 11386 OF 2025 PASSED BY THIS HON'BLE COURT
- Annexure 4** TRUE COPY OF THE ORDER DATED 23.09.2025 IN BA NO. 11416 OF 2025 PASSED BY THIS HON'BLE COURT
- Annexure 5** TRUE COPY OF THE ORDER DATED 23.09.2025 IN BA NO. 11916 OF 2025 PASSED BY THIS HON'BLE COURT