



2026:KER:14938

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

THURSDAY, THE 19TH DAY OF FEBRUARY 2026/30TH MAGHA, 1947

BAIL APPL. NO. 828 OF 2026

CRIME NO.52/2026 OF KARIPUR POLICE STATION, MALAPPURAM

PETITIONER/ACCUSED NO.5 (IN CUSTODY FROM 23.01.2026):

BASHEER THALIYIL,
AGED 53 YEARS, SON OF MOIDU,
THALIYIL, KUTTIADI, KAYAKKODI, KOZHIKODE DISTRICT,
PIN - 673508

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,
KARIPUR POLICE STATION, EMEA COLLEGE AIRPORT ROAD,
PALLIKKAL, MALAPPURAM DISTRICT, PIN - 673638

BY ADV.
SMT.SREEJA V., SR. PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19.02.2026,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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.5 in Crime No.52/2026 of Karipur Police Station, Malappuram District. The offences alleged are punishable under Sections 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('the NDPS Act' for short")

3. The prosecution case, in short, is that on 22.01.2026, at about 06:50 a.m., at Pulikkal Amsom, Karipur Desom, in a quarters located upstairs in the building wherein the Karipur CPM Branch Committee Office is situated, the accused No.1 was found in possession of 1.480 grams of MDMA. Further, the accused Nos.1 to 3 were found in possession of 39.110 grams of MDMA, which was concealed in the sunshade of a building named Achappas Villa within the same compound, intended for sale. This MDMA was procured from the applicant for the purpose of supplying to accused No.4. In total, 40.590



grams of MDMA was recovered from the location, thereby the applicant committed aforementioned offences.

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

5. The learned counsel for the applicant submitted that the applicant has been in custody since 23.01.2026 and the grounds of arrest were not communicated in accordance with law at the time of his arrest. The learned Senior Public Prosecutor on the other hand opposed the bail application and submitted that the grounds of arrest were duly communicated.

6. 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.

7. It is now well settled that the requirement of informing a person of the grounds for arrest is a mandatory requirement of Art.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).

8. In the instant case, the perusal of the records show that the grounds of arrest were duly communicated to the arrestee. However, the grounds of arrest were not intimated to the relative in writing. Admittedly, the relative was intimated over phone only. Since the arrest is after the judgment in **Mihir Rajesh Shah** (supra), the communication in writing is mandatory. The Supreme Court in **Kasireddy Upender Reddy v. State of Andhra Pradesh** (2025 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 so as 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. Inasmuch as the grounds of arrest were not communicated to the relatives of the applicant in writing, the arrest stands vitiated and he is entitled to be released on bail.

Hence, the Jail Superintendent, District Jail, Manjeri is directed to release the applicant forthwith. The bail application stands allowed.

Sd/-

**DR. KAUSER EDAPPAGATH
JUDGE**

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APPENDIX OF BAIL APPL. NO. 828 OF 2026

PETITIONER ANNEXURES

ANNEXURE 1 TRUE COPY OF THE FIRST INFORMATION REPORT IN
CRIME NO. 52/2026 OF KARIPUR POLICE STATION,
MALAPPURAM DISTRICT