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B.A No.11634 of 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

THURSDAY, THE 23RD DAY OF OCTOBER 2025 / 1ST KARTHIKA, 1947

BAIL APPL. NO. 11634 OF 2025

CRIME NO.1068/2024 OF ANGAMALI POLICE STATION, ERNAKULAM

PETITIONER/ACCUSED NO.3:

FISAL PJ,
AGED 44 YEARS,
S/O. P.K.JAINI, 14/812D, PUTHENPURACKAL HOUSE,
PANDIKUDY P.O, MATTANCHERRY, ERNAKULAM DISTRICT,
PIN - 682002

BY ADVS.
SRI.M.G.SREEJITH
SMT.VIDYAJITH M.
SMT.SWAPNALEKHA K.T.
SMT.ANJANA A.

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031
- 2 THE STATION HOUSE OFFICER
ANGAMALI POLICE STATION, ANGAMALI,
ERNAKULAM DISTRICT, PIN - 680308



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BY ADV
PP-SRI.G.SUDHEER.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
23.10.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



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'C.R'

K.BABU, J.

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Dated this the 23rd day of October, 2025

ORDER

This is an application filed under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita (BNSS), 2023.

2. The petitioner, accused No.3 in Crime No.1068/2024 of
Angamaly Police Station, seeks statutory bail under Section 187 of
the BNSS read with sub-section (4) of Section 36A of the Narcotic
Drugs and Psychotropic Substances (NDPS) Act. The offences
alleged against the petitioner are punishable under Sections 22(c),
8(c) and 27(a) read with Section 29 of the NDPS Act.

3. The petitioner was arrested on 18.02.2025. At the first
instance, he remained in judicial custody till 24.05.2025. On
24.05.2025, he was granted interim bail on medical grounds. He
remained on interim bail till 09.09.2025. The learned counsel for



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the petitioner seeks statutory bail, contending that the period during which he was granted interim bail is also be treated as custody as he had not enjoyed the benefit of absolute liberty.

4. Heard the learned counsel for the petitioner, the learned Public Prosecutor and the learned Amicus Curiae.

5. The relevant statutory provision in the Cr.PC is Section 167 (2). The *pari materia* provision in the BNSS is Section 187 (3). Section 187 (3) of the BNSS reads thus:

187. Procedure when investigation cannot be completed in twenty-four hours.

(1) xxxxx.

(2) xxxx

(3) The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding-

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of ten years or more;

(ii) sixty days, where the investigation relates to any other offence,

and, on the expiry of the said period of ninety days, or sixty



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days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXV for the purposes of that Chapter.”

6. As per sub-section (3) of Section 187, no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding ninety days or sixty days as the case may be, depending upon the offences alleged, for the purpose of investigation. If the investigation is not completed within the above referred statutory period, the accused person shall be released on bail, if he is prepared to and does furnish bail. The period referred to above may extend upto 180 days or 90 days as the case may be, in respect of persons accused of offences punishable under Section 19 or 24 or 27A or for offences involving commercial quantity under the NDPS Act. The prohibition as provided above, beyond the statutory period, is for the detention of the accused persons.

7. The question whether continuous or broken periods pieced



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together reaches the requisite period for the purpose of statutory bail was considered by the Supreme Court in **Gautam Navlakha v. NIA, [(2022) 13 SCC 542]**. In **Gautam Navlakha**, the Supreme Court held that broken periods of custody can be counted whether the custody is suffered by the order of the Magistrate or superior courts, if investigation remains incomplete after the custody, whether continuous or broken periods pieced together reaches the requisite period; default bail becomes the right of the detained person.

8. In **Sabu v. CBI [2020 (3) KLT 710]**, this Court also considered the same question and held that broken periods of custody could be considered for compulsive bail under proviso (a) (i) of sub-section (2) of Section 167 Cr.PC.

9. In the present case, the petitioner remained in detention at the first instance from 18.02.2025 till 24.05.2025 (96 days), and at the second instance from 09.09.2025 to 22.10.2025 (44 days). In view of the declaration of law by the Supreme Court, the broken



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periods could be taken together to appreciate the claim of statutory bail. The question now arises is: "Could the period during which the petitioner remained in interim bail be counted for calculating the requisite period for statutory bail?".

10. The learned counsel for the petitioner submitted that as the petitioner had no absolute liberty while he was on interim bail, the said period could also be counted for the purpose of availing statutory bail.

11. The learned Public Prosecutor submitted that the period during which the petitioner remained in interim bail, at any rate, could not be counted for granting statutory bail.

12. The learned Amicus Curiae has taken me to the various decisions and the relevant statutory provisions. The learned Amicus Curiae relaying on **Amir Hassan Mir v. UT of J & K and others, (Manu/JK/0206/2022)**, submitted that the petitioner could not be treated to be in detention or custody for the period he was released on temporary bail. The learned Amicus Curiae submitted



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that the period during which he was released on temporary bail should not be computed for the purpose of reckoning the period of 180 days as he had not been in detention. The learned Amicus Curiae submitted that an accused who has undergone custody in two spells in the same crime is entitled to get the two spells combined to claim default bail under Section 187(3) of the BNSS. The learned Amicus Curiae also submitted that only when the continuous or broken periods of custody pieced together reaches the requisite period; default bail becomes the right of the detained person. The learned Amicus Curiae submitted that only the actual custody undergone by the accused will be counted for computing the period for default bail. The learned Amicus Curiae, on going through the facts of the case, submitted that the petitioner has remained in detention only for 140 days. Therefore, he is not entitled to statutory bail.

13. What matters for statutory bail is detention, as provided in the statutory provisions, whether it is in one spell or in two spells.



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An accused person is entitled to be released on statutory bail by adding the truncated periods of detention suffered by him. I have no doubt in concluding that the period during which the accused person was released on temporary/interim bail should not be computed for the purpose of reckoning the period for statutory bail, as only the actual period of detention undergone by the accused need be counted for. Therefore, the necessary conclusion is that the petitioner is not entitled to statutory bail.

14. The Bail Application stands dismissed.

Before parting with the matter, this Court places on record its profound appreciation to the learned counsel Sri.K.P.Sarath, for his valuable assistance as Amicus Curiae.

Sd/-
K.BABU,
JUDGE

KAS



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APPENDIX OF BAIL APPL. 11634/2025

PETITIONER ANNEXURES

Annexure- A1	TRUE COPY OF FIR IN CRIME NO. 1068/2024 OF ANGAMALY POLICE STATION
Annexure- A2	TRUE COPY OF THE BANK ACCOUNT STATEMENTS FROM 01.04.2024 TO 06.04.2025 OF THE PETITIONER
Annexure- A3	TRUE COPY OF MEDICAL CERTIFICATE DATED 10.07.2025 ISSUED BY THE SENIOR CONSULTANT, LAKESHORE HOSPITAL, ERNAKULAM
Annexure- A3 (a)	TRUE COPY OF PHOTO GRAPHS OF THE PETITIONER
Annexure- A4	TRUE COPY OF ORDER DATED 27.08.2025 IN CRL.M.C. NO. 1357/2025
Annexure- A5	TRUE COPY OF ORDER DATED 27.08.2025 IN CRL.M.C NO. 2380/2025 IN THE FILES OF HON'BLE DISTRICT AND SESSIONS COURT, ERNAKULAM