



2025:KER:54409

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 23RD DAY OF JULY 2025 / 1ST SRAVANA, 1947

BAIL APPL. NO. 6164 OF 2025

CRIME NO.48 OF 2024 OF EXCISE ENFORCEMENT AND ANTI-NARCOTIC

SPECIAL SQUAD, THRISSUR

CRL.MP NO.2074/2025 OF ADDITIONAL SESSIONS COURT (ADHOC) III,

THRISSUR

PETITIONER/1ST ACCUSED:

SANAL SATHEESH
AGED 33 YEARS, S/O SATHEESH,
THULAMPARAMBIL HOUSE,
MARAPARAMBU TEMPLE, CHERANALLORE,
ERNAKULAM, PIN - 682034

BY ADVS.
SRI.R.K.RAKESH
SRI.N.S.DAYA SINDHU SHREE HARI
SRI.SASIDHARAN C.P.
SRI.AKSHAY PAVAN

RESPONDENT/RESPONDENT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031

SRI. NOUSHAD K.A., PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
23.07.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



2025:KER:54409

"C.R."**BECHU KURIAN THOMAS, J.****B.A. No.6164 of 2025**Dated this the 23rd day of July, 2025**ORDER**

Can the principle of section 10 of the General Clauses Act, 1897 (for short 'the GC Act') be applied to section 187(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS.')? The aforesaid question arises for consideration in this case.

2. Petitioner is the accused in Crime No.48 of 2024 of Excise Enforcement and Anti-Narcotic Special Squad, Thrissur. The prosecution alleges that on 16.10.2024, petitioner was found transporting 25.233 Kg of ganja in a vehicle and thereby the accused committed the offences under sections 20(b)(ii)(C), 29 and 60(3) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'). Petitioner was arrested on the same day and he was continuing in custody until 10.06.2025, when this Court granted an interim bail considering the question of law raised for consideration. Since the issue arises in relation to a crime registered alleging possession of commercial quantities of a narcotic drug, section 187 of BNSS



2025:KER:54409

has to be read along with section 36A(4) of the NDPS Act.

3. Smt. V.A. Haritha, the learned counsel for the petitioner submitted that, the final report in Crime No.48 of 2024 ought to have been filed by 13.04.2025, considering that petitioner was arrested on 16.10.2024, for the purpose of continuing the custody beyond 180 days as per section 187(3) of BNSS read with section 36A(4) of NDPS Act. However the final report was filed only on 15.04.2025 and by virtue of the said provision, petitioner has obtained a right to be released on statutory bail.

4. Sri. K.A. Noushad, the learned Public Prosecutor on the other hand submitted that, though 13.04.2025 was the last date on which the final report should have been filed for continuing the remand, since the said date was a Sunday and 14.04.2025 was a public holiday due to Vishu, the final report was filed only on 15.04.2025. According to the learned Public Prosecutor, by virtue of section 10 of the GC Act, the date on which the final report should have been filed being a holiday, the same will stand extended till the next working day and hence the final report has been filed within time, and therefore the petitioner cannot claim the benefit of statutory bail.

5. I have considered the rival contentions.

6. Section 187 of BNSS deals with the procedure when investigation into a crime cannot be completed within twenty-four hours. Though there is a minor change in the concept from section 167 of the erstwhile Cr.P.C to



2025:KER:54409

section 187 of BNSS, the core principle remains the same. As per section 187 of BNSS, after an accused is arrested, when investigation cannot be completed within the period of twenty-four hours, the police officer carrying on the investigation is bound to transmit the accused to the Magistrate, who can then authorise detention of the accused beyond the period of twenty-four hours. As per section 187(2) of BNSS, a Magistrate can authorise detention of an accused in custody for a term not exceeding fifteen days in whole and as per section 187(3) of BNSS, if there are adequate grounds, the Magistrate may authorize the detention of an accused beyond fifteen days but not beyond ninety days, when the offence is punishable with death or imprisonment for life or imprisonment for a term of ten years or more and sixty days in relation to any other offences. When it comes to offences relating to possession of commercial quantity of contraband under the NDPS Act, the period of ninety days shall stand extended to 180 days by virtue of section 36A(4) of the NDPS Act, which period can, in appropriate cases, be extended further, under orders of the Court, to one year.

7. If the investigation is not completed within the periods prescribed in clause (i) or clause (ii) of section 187(3) of BNSS, read with section 36A(4) of NDPS Act, as the case may be, the accused has to be released on bail, if he is prepared to satisfy the conditions of bail for his release. Thus, detention of an accused beyond twenty-four hours is subject to authorisation by the



2025:KER:54409

Magistrate, whose power is circumscribed by the period stipulated in section 187 of Cr.P.C read with section 36A(4) of the NDPS Act, as the case may be. For the purpose of easier comprehension, section 187(3) of BNSS is extracted as below:

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

(1) (omitted as not relevant to the present issue)

(2) (omitted as not relevant to the present issue)

(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 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.

(4) to (10) omitted as not relevant to the present issue)

8. As per Section 36A(4) of NDPS Act, if the offence is punishable under section 19 or section 24 or section 27A or for offences involving commercial quantity, the reference to “ninety days”, in the above provision will have to be construed as “one hundred and eighty days”, and the said period can be extended to one year by the Special Court.



9. On a reading of the above provisions, it is evident that no time limits are specified for filing the final report. What is stipulated is only authorization of detention beyond a particular period. If the investigation is not completed within the period prescribed therein, the Magistrate cannot authorize further detention of the accused and he will be entitled to statutory bail. On the other hand, if the investigation is completed within the said time, and the accused is still in custody, Chapter XXXV of BNSS would apply.

10. In this context, section 10 of the General Clauses Act, 1897 has to be considered. The said provision stipulates that if something is to be done within a particular day and if that day falls on a holiday, the time to do that act will continue till the next working day. For a better comprehension, Section 10 of the GC Act is extracted as below:

“10. Computation of time.—(1) Where, by any Central Act or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877 (15 of 1877), applies. (*emphasis supplied*)

(2) This section applies also to all Central Acts and Regulations made on or after the fourteenth day of January, 1887.”

11. The above provision mandates that only when an act or proceeding is directed or allowed to be done or taken in any Court or office on a certain



day or within a prescribed period, and if the court or office is closed on the last prescribed day, then it shall be sufficient that the said act or proceeding be done on the next day afterwards, on which the Court or office is open. In order to attract section 10 of GC Act, there must be a period prescribed directing an act to be done in a Court or an office. The sine qua non for attracting section 10 of the GC Act is the requirement of an act to be done or a proceeding to be taken in any Court or office within a period prescribed by law.

12. The question to be considered at this juncture is whether under section 187(3) of BNSS, is there any requirement to do an act or is there any period prescribed for performance of an act in a Court or in an office so as to attract section 10 of the GC Act. The answer to the aforesaid question can only be in the negative.

13. Section 187 confers power on a Magistrate to commit an accused to custody for a period of fifteen days and if the Magistrate is satisfied that there are adequate grounds, he can authorise the detention of the accused for a period beyond fifteen days but up to a maximum of sixty or ninety days, as the case may be. The said provision does not prescribe any period within which the police is required to file a final report before the Court. It also does not comprehend any specific act to be performed by the police within a



2025:KER:54409

particular period. Hence, in the absence of any period prescribed in section 187(3) of BNSS for completion of an investigation or filing of the final report, the period of detention under section 187 BNSS read with section 36A(4) of the NDPS Act, cannot be regarded as a period prescribed for the performance of an act in a Court or an office. Thus, section 10 of GC Act has no application.

14. In this context, it is necessary to refer to the decision of the High Court of Bombay in **State of Maharashtra v. Sharad B Sarda** (1983 2 CriLC 18) and also the decision of the Delhi High Court in **Powell Nwawa Ogechi v. The State (Delhi Administration)** (1986 CriLJ 2081). In **Sharad B. Sarda's** case (supra), the Bombay High Court held that section 167 of Cr.P.C does not prescribe any time limit for presentation of a charge sheet by the Investigating Officer. It was also held that section 10 of the GC Act has no application as the Cr.P.C does not prescribe any time limit for presentation of the charge sheet. Similarly, in **Pawal Nwawa Ogechi's** case (supra), a Division Bench of the Delhi High Court held, while dealing with the erstwhile Cr.P.C, that the power under section 167(2) Cr.P.C is essentially a power given to the Magistrate to be exercised pending investigation and that the power ceases to exist after the expiry of ninety days or sixty days, as the case may be and thereafter there is no lawful authority left with the Magistrate to detain a person in custody for a further period, unless he offers him bail and the



2025:KER:54409

accused fails to furnish the same. It was further observed that at the end of the expiry of the aforesaid period, the right accruing to the accused person would be deemed to be absolute and indefeasible and his further custody without offering bail even for a day, without the charge sheet being presented, would be legally without any justification.

15. A similar view has been expressed in **Noor Mohammad v. State** [ILR 1978 (2) Del 442] wherein also, a Division Bench of the Delhi High Court held that section 10 of the General Clauses Act is not applicable in the matter of section 167(2) of the Cr.P.C and the said provision cannot be invoked to defeat the accrued right of an accused person to be freed when the charge sheet has not been filed. I am in respectful agreement with the views expressed by the Delhi and Bombay High Courts.

16. Thus, if the ninetieth or one hundred and eightieth day, as the case may be, falls on a holiday, the principle of section 10 of the GC Act cannot be applied to extend the period specified in section 187 of BNSS read with section 36A(4) of NDPS Act, till the next working day. In other words, if the period prescribed in section 187 of BNSS falls on a public holiday, filing of the final report on the next working day cannot be treated as filed within the time specified therein, to deny statutory bail to an accused.

17. In view of the above discussion, the final report having not been



2025:KER:54409

filed within the one hundred and eightieth day, petitioner is entitled to be released on statutory bail.

Accordingly this application is allowed on the following conditions:

- (a) Petitioner shall be released on bail on him executing a bond for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the court having jurisdiction.
- (b) Petitioner shall co-operate with the trial of the case.
- (c) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he attempt to tamper with the evidence.
- (d) Petitioner shall not commit any similar offences while he is on bail.
- (e) Petitioner shall not leave the country without the permission of the jurisdictional Court.

In case of violation of any of the above conditions or if any modification or deletion of the conditions are required, the jurisdictional Court shall be empowered to consider such applications, if any, and pass appropriate orders in accordance with law, notwithstanding the bail having been granted by this Court.

Sd/-

BECHU KURIAN THOMAS
JUDGE

vps



2025:KER:54409

APPENDIX OF BAIL APPL. 6164/2025

PETITIONER'S/S' ANNEXURES

Annexure A1

TRUE COPY OF THE ORDER DATED 29/04/2025 IN
CRL.M.P. NO.2074/2025