



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 19TH DAY OF DECEMBER 2025 / 28TH AGRAHAYANA, 1947

WP(CRL.) NO. 1750 OF 2025

PETITIONER:

SHADULI P.M
AGED 31 YEARS, S/O LATE PM MOOSA,
THAMEEM MANZIL, PAIVALIGE P.O,
MANJESHWARAM,
KASARAGOD DISTRICT -, PIN - 671348

BY ADVS.
SHRI.SUBASH CHANDRAN
SMT.KAVITHA K.T.
SMT. AHALYA PRAKASH K.V.
SHRI.HAMDAN MANSOOR K.

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY,
HOME DEPARTMENT, GROUND FLOOR,
MAIN BLOCK, SECRETARIAT,
THIRUVANANTHAPURAM -, PIN - 695001
- 2 THE DIRECTOR GENERAL OF PRISONS
AND CORRECTIONAL SERVICES
PRISONS HEADQUARTERS, POOJAPPURA,
THIRUVANANTHAPURAM, KERALA, PIN - 695012
- 3 THE SUPERINTENDENT,
OPEN PRISON AND CORRECTIONAL HOME,
NETTUKALTHERI, THIRUVANANTHAPURAM - ,
KERALA, PIN - 695572
- 4 THE STATE LEVEL ADVISORY BOARD (PRISONS),
REPRESENTED BY THE CHAIRMAN,
PRISONS HEADQUARTERS, POOJAPPURA,

W.P.(Crl.) No. 1750 of 2025



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2025:KER:98255

THIRUVANANTHAPURAM, KERALA., PIN - 695012

SRI.E.C.BINEESH-SR.PP

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 19.12.2025, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:



"C.R."

J U D G M E N T

The petitioner is the nephew of the convict, who is undergoing life imprisonment at the Central Prison and Correctional Home, Kannur. The petitioner's marriage is scheduled for 26.12.2025, as evident from Ext. P4 invitation card. The petitioner submitted an application to the Superintendent of Central Prison and Correctional Home, Kannur, seeking ten days' emergency leave for the convict to attend the marriage. The petitioner is aggrieved by the non-consideration of the said application. Hence, he has approached this Court to give a direction to the respondents to grant emergency leave to the convict for the period from 20.12.2025 to 29.12.2025.

2. I have heard Sri.Subash Chandran, the learned counsel for the petitioner and Sri.E.C.Bineesh, the learned Senior Public Prosecutor.

3. Rule 400 of the Kerala Prisons and Correctional



Services (Management) Rules, 2014 (for short, 'the Rules') deals with the grant of emergency leave. As per Rule 400(1) (ii), a convict is eligible for emergency leave to attend the marriage of close relatives mentioned therein. It reads thus:

“400. അടിയന്തിര അഡ്ഡി (1) ദേശീയ സുരക്ഷയുമായി ബന്ധപ്പെട്ട കുറ്റകൃത്യങ്ങളിൽ ശിക്ഷിക്കപ്പെട്ടവർ ഒഴികെയുള്ള ഏതൊരു സർവ്വസാധാരണമായ തടവുകാർക്കും താഴെ വ്യക്തമാക്കിയിട്ടുള്ള വളരെ അടിയന്തിര ഘട്ടങ്ങളിൽ അടിയന്തിര അഡ്ഡിക്ക് അർഹതയുണ്ടായിരിക്കും.

(i) xxx

(ii) മകൻ, മകൾ, സഹോദരൻ, സഹോദരി, പൗത്രൻ, പൗത്രി, ഭാര്യ-ഭർത്തൃ സഹോദരൻ, ഭാര്യ-ഭർത്തൃ സഹോദരി, നേർ അനന്തിരവൻ, നേർ അനന്തിരവൾ, എന്നിവരുടെ വിവാഹം.”

“400. Emergency leave: (1) Any well behaved convicted prisoner other than a person convicted in respect of any offence relating to National Security shall be eligible for emergency leave under any of the very exceptional circumstances specified below, namely.

(i) xxx

(ii) Marriage of son, daughter, brother and sister, grandson, granddaughter, brother-in law, sister-in law, direct nephew, direct niece.”

4. The learned Senior Public Prosecutor submitted that the application for emergency leave filed by the petitioner was rejected on the ground that the petitioner does not fall within Rule 400(1)(ii) of the Rules. It is



submitted that the Jail Superintendent interpreted the term 'അർ അന്നതിരവൻ' (direct nephew) as the sister's son of the convict and not the brother's son. I cannot accept the said interpretation. The large number of writ petitions filed before this Court challenging rejection of applications for emergency leave invoking Rule 400(1)(ii) of the Rules would also show that a wrong interpretation is being given to the terms 'അർ അന്നതിരവൻ' and 'അർ അന്നതിരവൾ' by almost all the Jail Superintendents in the State.

5. The term 'അർ അന്നതിരവൻ' or 'അർ അന്നതിരവൾ' cannot be interpreted to mean only the sister's son or daughter. There cannot be any discrimination between the sister's children and the brother's children. Exclusion of the convict's brother's son or daughter from the purview of Rule 400 (1)(ii) would amount to violation of Articles 14 and 15 of the Constitution of India. Hence, I hold that emergency leave can be granted to the convict, invoking Rule 400(1)(ii) of the Rules, to attend the marriage of not only the convict's sister's



son or daughter, but also the convict's brother's son or daughter as well, subject to the conditions in sub-rule (1) of Rule 400.

6 For the aforementioned reasons, the Jail Superintendent, Central Prison and Correctional Home, Kannur is directed to grant emergency leave to the convict for a week with effect from 23.12.2025. The Registry is directed to forward a copy of this judgment to the Jail Superintendents of all prisons in the State.

The writ petition is disposed of as above.

Sd/-
DR. KAUSER EDAPPAGATH
JUDGE



APPENDIX OF WP(CRL.) NO. 1750 OF 2025

PETITIONER EXHIBITS

- EXHIBIT P1 A TRUE COPY OF THE DEATH CERTIFICATE OF THE
FATHER OF PETITIONER MR. PM MOOSA ISSUED ON
14/11/2022
- EXHIBIT P2 A TRUE COPY OF THE DEATH CERTIFICATE OF THE
MOTHER OF PETITIONER MRS. KHATHEEJAMMA ISSUED
ON 09/03/2015
- EXHIBIT P3 A TRUE COPY OF THE SURRENDER CERTIFICATE ISSUED
BY THE SP, CENTRAL PRISON & CORRECTIONAL HOME
KANNUR DATED 03/12/2025
- EXHIBIT P4 A TRUE COPY OF THE INVITATION CARD OF MARRIAGE
OF THE PETITIONER FIXED ON 26/12/2025
- EXHIBIT P5 A TRUE COPY OF THE REPRESENTATION SUBMITTED BY
THE PETITIONER DATED 11/12/2025