



NC: 2026:KHC:50935
CRL.P No. 4574 of 2026

CNR: KAHC010207012026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 17TH DAY OF SEPTEMBER, 2026
BEFORE
THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY
CRIMINAL PETITION NO. 4574 OF 2026

BETWEEN:

ANIL B.S.
S/O SURENDRA B.D.,
AGE 41 YEARS
R/O BELAGOLA VILLAGE,
BELAGOLA HOBLI,
TALUKA SRIRANGPATNA,
DISTRICT MANDYA - 571 606

...PETITIONER

(BY SRI. TIGADI VEERANNA GADIGEPPA, ADVOCATE)

AND:

1. ADISHESHA B.S.
S/O LATE SRINIVASA D.,
AGE 57 YEARS
R/O NO 124, RAMAMANDIRA ROAD,
BELAGOLA VILLAGE,
BELAGOLA HOBLI,
TALUKA SRIRANGPATNA,
DISTRICT MANDYA - 571 606.

2. THE STATE OF KARNATAKA,
REP BY SUB-INSPECTOR OF POLICE,
K.R. SAGARA POLICE STATION,
TALUKA SRIRANGPATNA,
DISTRICT MANDYA - 571 606.
REP BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. YOGENDRA.H, ADVOCATE FOR R1;
SRI. RAHUL RAI.K, HCGP FOR R2)

Digitally signed
by NANDINI M
S
Location: HIGH
COURT OF
KARNATAKA



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THIS CRL.P IS FILED U/S 439(2) CR.PC (FILED U/S 483(3) OF BNSS) PRAYING TO ALLOW THE PETITION BY QUASHING/CANCELLING THE ANTICIPATORY BAIL GRANTED TO ACCUSED/RESPONDENT NO.1 IN K.R SAGAR POLICE STATION CRIME NO.18/2026 FOR THE OFFENCES P/U/S 109, 118(1) AND 352 OF BNS 2023 BY AN ORDER DATED 28.02.2026 IN CRIMINAL MISCELLANEOUS PETITION NO.5040/2026.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

1. This petition under Section 483(3) of BNSS, 2023, is filed by the injured victim with a prayer to cancel the anticipatory bail granted to respondent No.1 herein by the Court of III Addl. District and Sessions Judge, Mysuru, sitting at Srirangapatna, in Crl.Misc.No.5040/2026 vide order dated 28.02.2026, in Crime No.18/2026 registered by K. R. Sagar Police Station, Mandya, for the offences punishable under Sections 109, 118(1) and 352 of BNS, 2023.

2. Heard the learned counsel for the parties.

3. FIR in Crime No.18/2026 was registered by K. R. Sagar Police Station, Mandya, for the aforesaid offences against



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respondent No.1 herein, based on the first information dated 05.02.2026 received from Rakshitha, who is the wife of petitioner herein. Apprehending arrest in the case, respondent No.1 herein, who was arraigned as an accused in the FIR, had approached the jurisdictional Sessions Court in Crl.Misc.No.5040/2026 seeking anticipatory bail. The said petition was allowed on 28.02.2026. Assailing the same, injured victim is before this Court.

4. Learned counsel for the petitioner having reiterated the grounds urged in the petition submits that learned Sessions Judge has failed to appreciate the gravity of the offences committed by the accused and has granted anticipatory bail in a mechanical manner. He submits that accused is a person with criminal antecedents. Petitioner had suffered grievous injury as a result of the assault made by the accused and he was admitted in Hospital for a considerable period of time. He, accordingly, prays to allow the petition.

5. Per contra, learned counsel for respondent No.1/accused has argued in support of the order impugned. He submits that



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in all the earlier criminal cases registered against the accused, he has been acquitted. The incident in question had taken place in the background of the civil dispute between the parties. Investigation of the case is now completed and charge sheet is filed. Accordingly, he prays to dismiss the petition.

6. Learned HCGP submits that in spite of the prosecution filing objections opposing the bail application, the learned Sessions Judge without appreciating the same, has passed the impugned order. Accordingly, he prays to allow the petition.

7. A reading of the first information would reveal that there is certain civil dispute between the parties and it is in this background, on 05.02.2026, respondent No.1/accused had assaulted petitioner with a machete and caused grievous injuries to him. Medical records of the petitioner would reveal that he was admitted in the Hospital for a considerable period of time and the injuries suffered by him as a result of the assault made by accused with deadly weapons are grievous in nature. The allegation against the accused is that he tried to assault the petitioner with a machete on his head and when the



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petitioner raised his left hand in order to evade the said blow, he had suffered injuries on his left hand as a result of assault by the accused.

8. The photograph of the injured hand of the petitioner is produced along with the petition. A perusal of the same would go to show that left wrist of the petitioner including the bone, was cut and the wrist was virtually dangling with the skin. Material on record would go to show that petitioner is a person with criminal antecedents and as many as six criminal cases were registered against him earlier. In addition to the aforesaid six criminal cases, police had initiated proceedings under Section 107 of Cr.P.C. against the accused as many as eight times. The allegation in the present case is that accused had assaulted the petitioner with a machete. The weapon used for committing the offence was not recovered in the present case as on the date of granting anticipatory bail to the accused. A reading of the order impugned would go to show that learned Sessions Judge has failed to appreciate the gravity of the allegations found against the accused and has proceeded to



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grant anticipatory grant only for the reason that there is a civil dispute between the parties.

9. The judgment of this Court in Crl.P.No.200918/2022 C/w Crl.P.No.200920/2022 dated 17.08.2022 on which reliance was placed by learned Sessions Judge for the purpose of granting anticipatory bail to the accused in the present case, was passed by this Court while granting regular bail to an accused. The principles and parameters the Court needs to follow for granting regular bail and anticipatory bail are totally different and the learned Sessions Judge has failed to appreciate the same.

10. The Court, while considering a bail application, needs to take into consideration the nature and gravity of the accusation and also the severity of punishment in the event of conviction. In addition the Court has to verify whether there is any *prima facie* case and reasonable grounds to believe that accused had committed the offence.

11. In the case on hand, the learned Sessions Judge has not at all appreciated the aforesaid aspects of the matter and on



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the other hand has proceeded to grant anticipatory bail in a hurried manner on the reasoning that there is a civil dispute between parties. Respondent no.2 has allegedly assaulted the victim with a machete and the weapon used for committing the offence was not recovered. In spite of the same, learned Sessions Judge has observed that custodial interrogation of the petitioner would not be necessary and the police can investigate the case without arresting the accused.

12. In the case of ***Pratibha Manchanda and Another vs. State of Haryana and Another - (2023) 8 SCC 181***, the Hon'ble Supreme Court in paragraph Nos.19 to 21 has observed as under:-

"19. In Siddharam Satlingappa Mhetre v. State of Maharashtra - (2011) 1 SCC 694, this Court carefully considered the principles established by the Constitution Bench in Gurbaksh Singh Sibbia v. State of Punjab - (1980) 2 SCC 565 case. After a thorough deliberation, this Court arrived at the following conclusion :



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"112. The following factors and parameters can be taken into consideration while dealing with anticipatory bail:

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or other offences;

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;



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(vi) Impact of grant of anticipatory bail, particularly in cases of large magnitude affecting a very large number of people."

20. In Sushila Aggarwal v. State (NCT of Delhi) - (2018) 7 SCC 731, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

21. The relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each individual case becomes crucial to ensure a just outcome."



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13. In the case of ***Jayaben vs. Tejas Kanubhai Zala, (2022) 3 SCC 230***, the Hon'ble Supreme Court, in paragraph 18 has observed as under:

"18. Now so far as the submissions on behalf of the accused that after the accused are released on bail by the impugned judgments and orders [Jaysukhbhai Devrajbhai Radadiya v. State of Gujarat, 2019 SCC OnLine Guj 1915] passed by the High Court, more than two-and-a-half years have passed and there are no allegations of misuse of liberty and therefore, the bail may not be cancelled is concerned, the aforesaid cannot be accepted. As per the settled preposition of law, cancellation of bail and quashing and setting aside the wrong order passed by the High Court releasing the accused on bail stand on different footings. There are different considerations while considering the application for cancellation of bail for breach of conditions, etc. and while considering an order passed by the Court releasing the accused on bail. Once, it is found that the order [Jaysukhbhai Devrajbhai Radadiya v. State of Gujarat, 2019 SCC OnLine Guj 1915] passed by the High Court releasing the accused on bail is unsustainable, necessary consequences shall have to follow and the bail has to be cancelled."



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14. In the case of **Mahipal vs. Rajesh Kumar alias Polia and Another - (2020) 2 SCC 118** in paragraph nos.11 and 12 has observed as follows:

"11. Essentially, this Court is required to analyse whether there was a valid exercise of the power conferred by Section 439 CrPC to grant bail. The power to grant bail under Section 439 is of a wide amplitude. But it is well settled that though the grant of bail involves the exercise of the discretionary power of the court, it has to be exercised in a judicious manner and not as a matter of course. In Ram Govind Upadhyay v. Sudarshan Singh⁵ Umesh Banerjee, J. speaking for a two-Judge Bench of this Court, laid down the factors that must guide the exercise of the power to grant bail in the following terms:

"3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. ... The nature of the offence is one of the basic considerations for the grant of bail — more



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heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.

4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:

- (a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.*
- (b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.*
- (c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.*
- (d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be*



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considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

12. The determination of whether a case is fit for the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a prima facie view of the involvement of the accused are important. No straitjacket formula exists for courts to assess an application for the grant or rejection of bail. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the accused. That is a matter for trial. However, the Court is required to examine whether there is a prima facie or reasonable ground to believe that the accused had committed the offence and on a balance of the considerations involved, the continued custody of the accused subserves the purpose of the criminal justice system. Where bail has been granted by a lower court, an appellate court must be slow to interfere and ought to be guided by the principles set out for the exercise of the power to set aside bail."

15. There is no hard and fast rule regarding grant of bail. The Court has to consider each case on its facts and circumstances



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and the discretion of the Court has to be exercised judiciously and not in an arbitrary manner.

16. The correctness of an order granting bail is tested by an Appellate Court on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified.

17. In case on hand, the learned Sessions Judge has exercised its discretion arbitrarily without taking into consideration the gravity of the accusation and the severity of injuries suffered by the victim. The reasoning assigned by the learned Sessions Judge for granting anticipatory bail in a case of such a serious allegation, where the accused could be punished with life imprisonment cannot be accepted.

18. The order of bail which is bereft of any cogent reasoning cannot be sustained as held by the Hon'ble Supreme Court in this case of **Jayaben** (*supra*). Merely for the reason that the charge sheet is now filed, the order passed by the learned Sessions Judge arbitrarily without assigning cogent reasons



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granting anticipatory bail to the accused in a case where the accused could be punished with life imprisonment, cannot be sustained.

19. In the present case, relevant factors which should have been taken into consideration while dealing with the bail application are not being taken note and on the other hand, bail has been granted taking irrelevant considerations and therefore, such an order cannot be sustained. Under these circumstances, the following:-

ORDER

- (i) The criminal petition is ***allowed***.
- (ii) The anticipatory bail granted to respondent No.1 in Crl.Misc.No.5040/2026 vide order dated 28.02.2026 by the Court of III Addl. District and Sessions Judge, Mandya (sitting at Srirangapatna), in Crime No.18/2026 registered by K. R. Sagar Police Station, Mandya, for the offences punishable under Sections 109, 118(1) and 352 of BNS, 2023, is set-aside and respondent No.1 is directed to surrender within a period of one week from the date of receipt of copy of this order.



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- (iii) It is made clear that observations made above are all confined to examining the infirmity of the order passed by the learned Sessions Judge granting anticipatory bail to respondent No.1.
- (iv) This order shall not preclude respondent No.1 from applying for a regular bail before the jurisdictional Court and if such an application is filed seeking regular bail, the same shall be considered on merits of the case without being influenced by this order.

**Sd/-
(S VISHWAJITH SHETTY)
JUDGE**

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List No.: 1 SI No.: 40