



CNR: KAHC010484202026

NC: 2026:KHC:52550
CRL.A No. 1219 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 23RD DAY OF SEPTEMBER, 2026
BEFORE
THE HON'BLE MR. JUSTICE S RACHAIAH
CRIMINAL APPEAL NO. 1219 OF 2026 (U/S 14(A) (2))

BETWEEN:

1. NAGARAJU,
AGED ABOUT 32 YEARS,
S/O. MUNISWAMI @ MUNISHAMI
@ CHINNAPPA,
NO.1115, NEAR ANJANEYA
SWAMY TEMPLE, BEGUR,
BANGALORE – 560 068.

...APPELLANT

(BY SMT. SUMAN HEGDE., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY BEGUR POLICE STATION,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDINGS,
BENGALURU – 560 001.
2. MR. NAYEEM NOOR,
C/O. NOOR MOHAMMED OMER,
AGED ABOUT 66 YEARS,
R/AT NO.88, MOSQUE ROAD,
OPP. KFC, FRAZER TOWN,
BENGALURU – 560 005.

Digitally
signed by
SUSHMA
LAKSHMI
B S
Location:
High Court
of
Karnataka



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INDICATED IN F.I.R. AS:
MR. NAYEEM NOOR,
N/A BENGALURU CITY
KARNATAKA.

...RESPONDENTS

(BY SRI. S. JAVEED., HCGP FOR R1;
SRI. SANDESH J. CHOUTA., SR. ADVOCATE FOR
SRI. AMAR CORREA, ADVOCATE FOR R2)

THIS CRL.A IS FILED U/S 14(A)(2) OF SC/ST (POA) ACT, 2015 BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE BAIL ORDER DATED 25.06.2026, PASSED IN SPL.C.NO.1258/2026, ARISING OUT OF CRIME NO.122/2025, (FIR NO.122/2025, BEGUR P.S.), BY THE COURT OF THE LXX ADDL. CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE AT BENGALURU, FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 3(2)(V), 3(1)(g) OF SC AND ST (POA) ACT, 1989 AND UNDER SECTIONS 115(2), 138, 190, 304(2), 310(2), 324(5), 331(4), 351(3) AND 352 OF BNS, 2023.

THIS CRIMINAL APPEAL HAVING BEEN HEARD AND RESERVED ON 25.08.2026, COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY, THE COURT MADE THE FOLLOWING:-



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CORAM: HON'BLE MR. JUSTICE S RACHAIAH

CAV JUDGMENT

1. The appellant/complainant is before this Court seeking to set aside the bail order dated 25.06.2026 passed in Spl.C.No.1258/2026 by the LXX Addl. City Civil and Sessions Judge and Special Judge, Bengaluru, granting bail to respondent No.2 / accused No.2 under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS, 2023') in Crime No.122/2025 of respondent No.1 – Police Station.

Brief facts of the case:

2. The case of the prosecution is that, on 29.05.2025, several persons along with accused No.2 trespassed into the property of the complainant, kidnapped and committed theft of certain articles and also assaulted the complainant. Therefore, a complaint came to be registered by the complainant. The respondent No.1 – police after registering the case, conducted investigation. The investigation is under progress. The appellant herein



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had approached the Trial Court for anticipatory bail. The Trial Court, after complying with the statutory requirements, granted anticipatory bail. However, the Trial Court while considering the regular formal application for bail, failed to comply Sections 15A(3) and 15A(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST (POA) Act') and proceeded to grant regular bail. Therefore, the *de facto* complainant has preferred this appeal seeking cancellation of bail granted to the respondent No.2.

3. Heard Smt. Suman Hegde, learned counsel for the appellant, Sri S. Javeed, learned High Court Government Pleader for respondent No.1 and Sri Sandesh J. Chouta, learned Senior Counsel for Sri Amar Correa, learned counsel for the respondent No.2.
4. The submission of the learned counsel for the appellant is that the Trial Court granted anticipatory bail vide its order dated 12.05.2026. The same has been challenged before



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this Court. In the meantime, the respondent No.2 after obtaining anticipatory bail approached the Trial Court for regular bail and the Trial Court granted the bail without notifying the *de facto* complainant, which is contrary to the settled principle of law.

5. It is further submitted that, in the meantime, the *de facto* complainant had preferred an appeal before this Court seeking to set aside the bail granted to the respondent No.2 by the Trial Court, on the ground that the mandatory provisions envisaged under the Act, viz., Sections 18 and 18A(2) of the SC/ST (POA) Act, were not followed properly. However, in the meantime, the Trial Court had granted regular bail. Hence, the prayer had become infructuous. Therefore, the appeal had been dismissed as withdrawn with liberty to challenge the regular bail order.
6. It is further submitted that the *de facto* complainant belongs to the weaker section and the entire family is trying to protect the property from the highhandedness and also from the dominant class of people. The manner



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in which the respondent No.2 and his henchmen behaved with the *de facto* complainant and his family would indicate its gravity. The interest of the weaker section is to be protected by the Constitutional Courts in order to secure the ends of justice. Therefore, the bail granted by the Trial Court, without considering the mandatory provisions, is held to be arbitrary and illegal. Hence, the bail has to be cancelled or set aside in the interest of justice. Making such submissions, learned counsel for the appellant prays to allow the appeal.

7. To support his contention, learned counsel for the appellant relied on the judgment of the Hon'ble Supreme Court in the case of ***Lakshmanan v. State Through the Deputy Superintendent of Police and Others***¹.
8. *Per contra*, learned Senior Counsel for the respondent No.2 vehemently justified the order of granting bail and submitted that the respondent No.2 is employed at M/s. Prestige Developers. The said Developers are the

¹ 2025 Live Law (SC) 1245



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absolute owners of the property. However, the complainant has filed a false case by taking advantage of the caste in order to implicate the respondent No.2 in a false case. Moreover, no such incident had taken place in the said area. Even assuming that the complainant and others had been dispossessed from the place, it was not on account of the complainant belonging to Scheduled Caste; however, the said Developers had a valid sale deed and other relevant documents to demonstrate that they are the legal owners of the said property and they are in possession of the property. However, the complainant and his henchmen were tried to trespass into the property of the respondent No.2 and the respondent No.2 in order to protect his property, trying to send away the complainant and his henchmen from the property. Therefore, the provisions of the SC/ST (POA) Act do not get attracted. Hence, the Trial Court has rightly granted anticipatory bail and also granted formal regular bail. Therefore, notifying the *de facto* complainant while granting regular bail does not warranted.



9. It is further submitted that cancellation or setting aside the bail is a serious issue. Once the bail is granted, it ought not to be cancelled in a mechanical manner. Cancellation or setting aside the bail order certainly would violate the fundamental rights of a person who obtained bail. In the present case, the Trial Court granted bail after considering the facts of the case. Such being the fact, cancellation or setting aside of the bail order is not required. Therefore, the appeal may be dismissed. Having said thus, learned Senior Counsel for the respondent No.2 prays to dismiss the appeal.

10. In support of his contention, learned Senior Counsel for the respondent No.2 relied on the following judgments:-

- i) ***Sushila Aggarwal v. State (NCT of Delhi)***²
- ii) ***Sumit v. State of U.P. & Anr.***³
- iii) ***Siddharam Satlingappa Mhetre v. State of Maharashtra***⁴

² (2020) 5 SCC 1

³ Criminal Appeal No.830 of 2026

⁴ (2011) 1 SCC 694



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- iv) ***Priya Indoria v. State of Karnataka***⁵
- v) ***Md. Asfak Alam v. The State of Jharkhand***⁶

11. Learned High Court Government Pleader for respondent No.1 adopted the arguments advanced by the learned Senior Counsel for respondent No.2 and prays to dismiss the appeal.
12. Having heard learned counsel for the respective parties and also on perusal of the order dated 25.06.2026, it appears that the notice to the *de facto* complainant has not been issued while considering the regular bail. It is mandatory to notify the *de facto* complainant while granting bail and also it is necessary to take the objections from the *de facto* complainant in the said process.
13. To fortify my view, the Hon'ble Supreme Court in the case of ***Lakshmanan***, referred to supra, held that, para No.12 reads as under:

⁵ (2024) 4 SCC 749

⁶ Criminal Appeal No.2207 of 2023



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*12. However, the present case squarely warrants annulment of the impugned bail order, even while this Court remains conscious of the settled principle that an order granting bail should not be lightly or routinely interfered with. It is well settled that the power to set aside or annul a bail order operates in a field distinct from cancellation of bail. Cancellation of bail is ordinarily premised on supervening circumstances or post-bail misconduct, whereas annulment is justified where the very order granting bail is vitiated by perversity, illegality, arbitrariness or non-application of mind. This Court in *Shabeen Ahmad v. the State of Uttar Pradesh* and another, has lucidly explained the circumstances in which an order granting bail may be interfered with in exercise of its constitutional jurisdiction. The relevant paragraphs of the said decision are extracted below for proper appreciation:*

"18. We also find it necessary to express our concern over the seemingly mechanical approach adopted by the High Court in granting bail to the Respondent accused. A superficial application of bail parameters not only undermines the gravity of the offence itself but also risks weakening public faith in the judiciary's resolve to combat the menace of dowry deaths. It is this very perception of justice, both within and



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outside the courtroom, that courts must safeguard, lest we risk normalizing a crime that continues to claim numerous innocent lives. These observations regarding grant of bail in grievous crimes were thoroughly dealt with by this Court in Ajwar v. Waseem in the following paras:

"26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer: Chaman Lal v. State of U.P. [Chaman Lal v. State of U.P., (2004) 7 SCC 525 : 2004 SCC (Cri) 1974]; Kalyan Chandra Sarkar v. Rajesh Ranjan [Kalyan Chandra



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Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528 : 2004 SCC (Cri) 1977]; Masroor v. State of U.P. [Masroor v. State of U.P., (2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368]; Prasanta Kumar Sarkar v. Ashis Chatterjee [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765]; Neeru Yadav v. State of U.P. [Neeru Yadav v. State of U.P., (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527]; Anil Kumar Yadav v. State (NCT of Delhi) [Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425]; Mahipal v. Rajesh Kumar [Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558].]

27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior court if it transpires that the courts below



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have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order. In P v. State of M.P. [P v. State of M.P., (2022) 15 SCC 211] decided by a three-Judge Bench of this Court [authored by one of us (Hima Kohli, J.)] has 7 (2025) 4 SCC 172 8 (2024) 10 SCC 768 11 spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under Section 439(1) CrPC in the following words: (SCC p. 224, para 24)

"24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of Haryana, (1995) 1 SCC 349 : 1995 SCC (Cri) 237]. To put it differently, in ordinary circumstances, this Court would be



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loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court."

Considerations for setting aside bail orders

28. The considerations that weigh with the appellate court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and



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detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.”

12.1. The impugned judgment passed by the High Court suffers from such fatal infirmities. A determinative factor completely ignored by the High Court is that the respondents / accused were earlier enlarged on bail by the trial Court, and that such bail was subsequently cancelled owing to grave supervening circumstances. These included the death of Suresh, a material witness in Crime No. 39 of 2020 and registration of Crime No. 202 of 2022, indicating intimidation of witnesses and attempts to derail the trial. These facts were not peripheral or collateral. They went to the root of the issue of misuse of liberty and threat to the fairness of trial. The High Court, however, failed even to advert to these aspects, let alone analyse their impact on the entitlement of the respondents / accused to bail. The omission to consider prior cancellation of bail and demonstrated abuse of liberty renders the impugned judgment manifestly perverse.



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12.2. The FIR discloses commission of serious offences alleged under Sections 147, 148, 447, 341, 294(b), 323, 324, 307 and 379 IPC read with Section 3(2)(va) of the SC/ST (POA) Act. The allegations involve formation of an unlawful assembly, use of deadly weapons, armed assault resulting in injuries necessitating hospitalisation and commission of offences with knowledge of the victim's Scheduled Caste status. The High Court's judgment does not reflect any meaningful evaluation of the nature and gravity of the offences, the severity of punishment prescribed, or the societal impact of releasing the accused, particularly in offences under the SC/ST (POA) Act, where intimidation of victims and witnesses is a recurring concern. The absence of such analysis, in a case involving Section 307 IPC and offences under the SC/ST (POA) Act, betrays a clear non-application of mind.

12.3. The criminal antecedents of the respondents / accused were expressly placed before the High Court and were recorded in the impugned judgment. However, the High Court failed to draw any conclusion from them or assess their relevance to the likelihood of reoffending, intimidation of witnesses, or obstruction of justice. Recording antecedents without evaluating their impact amounts to an



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empty formality and does not satisfy the judicial obligation to apply mind to relevant considerations.

12.4. It is significant to point out that the High Court appears to have been influenced by the existence of a civil dispute between the parties. It is trite law that pendency of civil litigation neither dilutes criminal liability nor overrides considerations of gravity, antecedents, or witness safety. Reliance on the civil nature of the dispute, without addressing the serious criminal dimensions of the case, constitutes a misdirection in law. On the other hand, the impugned judgment contains formulaic observations, unaccompanied by any reasoned linkage between the facts of the case and the legal standards governing grant of bail. There is no explanation as to how release on bail, in the backdrop of prior cancellation, death of a material witness, and allegations of witness intimidation, is compatible with a fair and uninfluenced trial.

12.5. In sum the High Court granted bail to the respondents / accused ignoring prior cancellation of bail and abuse of liberty, failing to consider the death of a material witness and the threat to the fairness of trial, disregarding the gravity and seriousness of the offences,



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including those under the SC/ST (POA) Act, overlooking criminal antecedents placed on record, and relying on irrelevant considerations such as pendency of civil disputes. Applying the settled principles governing annulment of bail orders, the impugned judgment is vitiated by perversity, arbitrariness, and non-application of mind. Consequently, the judgment of the High Court granting bail to the respondents / accused deserves to be set aside."

14. Having considered the dictum of the Hon'ble Supreme Court, the bail granted to the respondent No.2 by the Trial Court has to be cancelled since notice to the *de facto* complainant has not been issued while granting bail.
15. In the light of the observations, I proceed to pass the following:-

ORDER

- i) The Criminal Appeal is *allowed*.
- ii) The order dated 25.06.2026 passed in Spl.C.No.1258/2026 by the LXX Addl. City Civil and Sessions Judge and Special Judge,



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Bengaluru, granting bail to respondent No.2 /
accused No.2, is set aside.

- iii) Liberty is reserved to the respondent No.2 to file
necessary application for regular bail pursuant to
the anticipatory bail granted.
- iv) The Trial Court is directed to issue notice to the
complainant / appellant herein in accordance
with law and proceed to pass an appropriate
order.

Sd/-
(S RACHAIAH)
JUDGE

BSS
List No.: 1 Sl No.: 48