



CNR: KAHC010503162026

NC: 2026:KHC:51012
CRL.P No. 10979 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 10979 OF 2026

BETWEEN:

SUBHASH
S/O RAVI
AGED ABOUT 28 YEARS
R/A LAKKUR VILLAGE, MALUR TALUK
KOLAR DISTRICT, PERMANENT
R/A RULLE, VADDARAHALLI
VILLAGE, MADAKSHIRA
TALUK, PUTTAPARTHI
DISTRICT, ANDHRA PRADESH
WORKING AT ASHOKA WINES
LAKKUR VILLAGE, MALUR TALUK.

...PETITIONER

(BY SRI ABHINAYA K, ADV., FOR)

AND:

STATE OF KARNATAKA
REP. BY MALUR P.S.
REPRESENTED PUBLIC
KARNATAKA BUILDING
VEEDHI, BY STATE PROSECUTOR
HIGH COURT AMBEDKAR
BANGALORE - 560 001.

...RESPONDENT

(BY SRI B.N. JAGADEESHA, SPP)

THIS CRL.P IS FILED U/S 439 CR.PC (FILED U/S 483 BNSS)
PRAYING TO ENLARGE HIM ON BAIL IN CR.NO.314/2025 OF MALUR
P.S., KOLAR DTD 27.10.2025, NOW PENDING IN S.C.NO.43/2026
BEFORE THE HONBLE 2ND ADDL. DISTRICT AND SESSIONS JUDGE,
KOLAR, FOR THE OFFENCES P/U/S 129(2), 115(2), 103(1) R/W 3(5)
OF BNS 2023.



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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. Accused in SC No.43/2026 pending before the Court of II Additional District and Sessions Judge, Kolar, arising out of Crime No.314/2025 registered by Malur Police Station, Kolar, for the offences punishable under Sections 115(2), 126 and 103(1) of BNS, 2023, is before this Court in this petition filed under Section 483 of BNSS, 2023, seeking regular bail.
2. Heard the learned counsel for the parties.
3. Perusal of the material on record would go to show that FIR in the present case was registered against petitioner and others, based on the first information dated 27.10.2025 received from Nagendra G S. During the course of investigation, petitioner herein was arrested on 27.10.2025 and remanded to judicial custody. His bail application filed before the Trial Court in Crl.Misc.No.136/2026 was rejected on 09.04.2026. Therefore, he is before this Court.



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4. Learned counsel for the petitioner submits that petitioner, who was arrested in the present case on 27.10.2025 at about 05.30 p.m. was produced before the jurisdictional Magistrate on 28.10.2025 at about 08.30 p.m., which is beyond the period of 24 hours from the time of his arrest. Therefore, the petitioner is entitled for bail.

5. Learned SPP, who has opposed the petition submits that though petitioner was produced at about 04.30 p.m. on 28.10.2025 by the Investigation Officer, in view of some medical urgency, the order sheet in the present case was subsequently written at about 08.30 p.m.

6. The order sheet recorded by the learned Magistrate in Crime No.314/2025 is made available to this Court by learned counsel for the petitioner. In the said order sheet, specific mention has been made by learned Magistrate that accused was produced beyond the period of 24 hours from the time of his arrest.

7. The Hon'ble Supreme Court in the case of **MANOJ VS STATE OF MADHYA PRADESH - AIR 1999 SC 1403**, in paragraph 12, has observed as under:



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"12. If the police officer is forbidden from keeping an arrested person beyond twenty-four hours without order of a Magistrate, what should happen to the arrested person after the said period? It is a constitutional mandate that no person shall be deprived of his liberty except in accordance with the procedure established in law. Close to its heels the Constitution directs that the person arrested and detained in custody shall be produced before the nearest Magistrate within 24 hours of such arrest. The only time permitted by Article 22 of the Constitution to be excluded from the said period of 24 hours is "the time necessary for going from the place of arrest to the court of the Magistrate". Only under two contingencies can the said direction be obviated. One is when the person arrested is an "enemy alien". Second is when the arrest is under any law for preventive detention. In all other cases the Constitution has prohibited peremptorily that "no such person shall be detained in custody beyond the said period without the authority of a Magistrate".

8. In the case of **DIRECTORATE OF ENFORCEMENT VS. SUBHASH SHARMA - 2025 INSC 141**, in paragraph Nos.6 to 9, it is observed as follows:-



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"6. ... Admittedly, the respondent was not produced before the nearest learned Magistrate within 24 hours from 11.00 a.m. on 5th March, 2022. Therefore, the arrest of the respondent is rendered completely illegal as a result of the violation of clause 2 of Article 22 of the Constitution of India. Thus, the continuation of the respondent in custody without producing him before the nearest Magistrate within the stipulated time of 24 hours is completely illegal and it infringes fundamental rights under clause 2 of Article 22 of the Constitution of India. Therefore, his arrest gets vitiated on completion of 24 hours in custody. Since there is a violation of Article 22(2) of the Constitution, even his fundamental right to liberty guaranteed under Article 21 has been violated.

7. The requirement of clause 2 of Article 22 has been incorporated in Section 57 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C). There is no inconsistency between the provisions of the PMLA and Section 57 of Cr.P.C. Hence, by virtue of Section 65 of the PMLA, Section 57 of the Cr.P.C applies to the proceedings under the PMLA.

8. Once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under Articles 21 and 22 of the



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Constitution of India have been violated while arresting the accused or after arresting him, it is the duty of the Court dealing with the bail application to release the accused on bail. The reason is that the arrest in such cases stands vitiated. It is the duty of every Court to uphold the fundamental rights guaranteed under Articles 21 and 22 of the Constitution.

9. Therefore, when arrest is illegal or is vitiated, bail cannot be denied on the grounds of non-fulfillment of twin tests under clause (ii) of sub-section 1 of Section 45 of PMLA."

9. In view of the aforesaid, without going into the merits of the case, I am of the opinion that the prayer made by the petitioner for grant of regular bail needs to be answered affirmatively, subject to appropriate conditions. Accordingly, the following order:-

10. The petition is allowed. The petitioner is directed to be enlarged on bail in SC No.43/2026 pending before the Court of II Additional District and Sessions Judge, Kolar, arising out of Crime No.314/2025 registered by Malur Police Station, Kolar,



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for the offences punishable under Sections 115(2), 126 and 103(1) of BNS, 2023, subject to the following conditions:

- a) Petitioner shall execute a personal bond for a sum of Rs.1,00,000/- with two sureties for the likesum, to the satisfaction of the jurisdictional Court;
- b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;
- c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;
- d) The petitioner shall not involve in similar offences in future;
- e) The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

DN/List No.: 1 SI No.: 38