



CNR: KAHC010574512026

NC: 2026:KHC:50077
CRL.A No. 1423 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 15TH DAY OF SEPTEMBER, 2026
BEFORE
THE HON'BLE MR. JUSTICE G BASAVARAJA
CRIMINAL APPEAL NO. 1423 OF 2026 (449(CR.PC) /
495(BNSS))

BETWEEN:

1. SRI SHIVAIAH
S/O MALAIAH
AGED ABOUT 66 YEARS
R/A CHINDENAHALLI GADI,
KENKERE POST, GANASI HOBLI,
ARSIKERE TALUK, HASSA DISTRICT- 573119.
...APPELLANT

(BY SMT. NAVYA SHREE H L., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY HULIYAR POLICE STATION
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT COMPLEX
BENGALURU-560001
2. THE TAHSHILDAR,
ARSIKERE TALUK, B H ROAD,
ARSIKERE, KARNATAKA- 573103.
...RESPONDENTS

(BY SRI. NAGESHWARAPPA K., HCGP)

CRL.A FILED U/S 482 CR.PC (FILED U/S 528 BNNS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO QUASH THE CRL.MISC.NO.10017/2026 (ANNEUXRE-A) PENDING ON THE FILE OF V ADDL.DIST. AND SESSIONS JUDGE, TIPTUR AGAINST THE PETITIONER /SURETY FOR ATTACHMENT AND RECOVERY OF THE PROPERTY TO THE EXTENT OF RS.1,00,000/- AND ETC.



CNR: KAHC010574512026

NC: 2026:KHC:50077
CRL.A No. 1423 of 2026

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. The appellant who is the surety for Accused No.2
before the Trial Court, has preferred this appeal under
Section 449 Cr.P.C seeking following remedy:

"PRAYER

*WHEREFORE, the Appellant most respectfully
prays that this Hon'ble Court may be pleased to:*

*A. Set aside order dated 17/02/2026, the
Crl.Misc.10017/2026 (ANNEXURE-A) pending on
the file of V Addl District and Sessions Judge,
Tiptur against the Appellant/surety for
attachment and recovery of the property to the
extent of Rs.1,00,000/-;*

*B. SET ASIDE the order dated 13.08.2024 passed
by the learned V Additional District and Sessions
Judge, Tiptur, No.10011/2020 (ANNEXURE-B),
insofar as it rejects the application filed by the
Appellant under Section 446(3) Cr.P.C. and
directs recovery/attachment of the Appellant's
property for the sum of Rs.1,00,000/-;*



CNR: KAHC010574512026

C. IN THE ALTERNATIVE, exercise the powers under Section 446(3) Cr.P.C. and remit the major portion of the forfeited amount and restrict the liability of the Appellant to a nominal/symbolic amount, preferably Rs.10,000/- or such amount as this Hon'ble Court may deem fit and proper, taking into consideration the Appellant's advanced age, medical condition, financial incapacity and the subsequent appearance of accused No.2."

2. It is submitted that accused No.2 is the son of the appellant. The appellant has furnished surety for accused No.2 and executed a bond of Rs.1,00,000/- and accused No.2 did not appear before the Court. Hence, the Trial Court had issued Non-Bailable Warrant against accused No.2 and also notice to surety.

3. It is submitted that surety was suffering from illness and he was unable to secure accused No.2. Therefore, the Trial Court has passed an order on 13.08.2024 and application filed under Section 446(3) of Cr.P.C was



CNR: KAHC010574512026

NC: 2026:KHC:50077
CRL.A No. 1423 of 2026

rejected by the Trial Court and the surety was directed to pay bond of Rs.1,00,000/- within 3 months.

4. It is submitted by the appellant that, accused No.2 appeared before the Trial Court in Split-up Case No.10052/2024 on the file of the V Additional District and Sessions Judge, Tiptur. The order sheet pertaining to S.C.No.10052/2024 produced, reveals that, NBW issued against accused No.2 was recalled by the Trial Court and the case was posted to 07.09.2026. On 07.09.2026, accused No.2 was present and NBW was recalled.

5. It is submitted that the appellant is a senior citizen. The accused has already appeared before the Court. It is also submitted that accused is suffering from continuous health problems and due to snake bite, he had been hospitalized. The medical record, discharge summary and medical bills also produced. On all these grounds, it is sought to allow the appeal.



CNR: KAHC010574512026

NC: 2026:KHC:50077
CRL.A No. 1423 of 2026

6. Considering the submission and also keeping in mind the decision of the Hon'ble Supreme Court in the case of **MOHAMMED KUNJU vs. STATE OF MAHARASHTRA** reported in **(1999) 8 SCC 660**, it is just and proper to direct the appellant to pay an amount of Rs.10,000/- instead of Rs.1,00,000/-. Accordingly, I proceed to pass the following:

ORDER

- (i) Appeal is **allowed**;
- (ii) The order passed by the V Addl. District and Sessions Judge, Tiptur in SC.No.10011/2020, is hereby **set aside**;
- (iii) Consequently, the order passed by the Trial Court is **modified** subject to the appellant paying an amount of Rs.10,000/- instead of Rs.1,00,000/- towards bond amount;
- (iv) Registry directly to communicate this order to the concerned Trial Court.

Sd/-
(G BASAVARAJA)
JUDGE

DHA