

Reserved on : 02.09.2026
Pronounced on : 08.09.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 08TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.13595 OF 2026

BETWEEN:

MR.DARSHAN S., @ D. BOSS
S/O LATE TOOGUDEEP SRINIVAS,
AGED ABOUT 48 YEARS
RESIDING AT NO.217,
RAJARAJESHWARINAGAR,
BENGALURU - 560 098.
(NOW IN JUDICIAL CUSTODY,
CENTRAL PRISON, BENGALURU)

... PETITIONER

(BY SRI HASHMATH PASHA, SR.ADVOCATE FOR
SRI NASIR ALI, ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA
BY KAMAKSHIPALYA POLICE STATION,
BENGALURU - 560 095.

(REPRESENTED BY
LD.SPECIAL PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU)

- 2 . MR. KEVAL RAM DORJI
S/O JAYA BAHADUR DORJI,
SECURITY OFFICER IN
SATVA ANUGRAHA APARTMENT,
SUMMANAHALLI, BENGALURU,
RESIDING AT
NEAR INDIAN PETROL BUNK,
ULLAL, BENGALURU CITY.

- 3 . MR. PRADOOSH S. RAO @ PRADOOSH,
S/O SUBBARAO,
AGED 40 YEARS,
RESIDENT OF NO.56,
J.P. ROAD, GIRINAGAR,
BENGALURU CITY - 560 085.
(NOW IN JUDICIAL CUSTODY,
CENTRAL PRISON, BENGALURU)

... RESPONDENTS

(BY SRI P.PRASANNA KUMAR, SPL.L.PP FOR R-1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C./UNDER SECTION 528 OF BNSS, PRAYING TO 1.QUASH THE ORDER DATED 25.08.2026 AS PER ANNEXURE-B PASSED IN S.C.NO.1319/2024, ON THE FILE OF HON'BLE LVIII ADDL.CITY CIVIL AND SESSIONS JUDGE, AT BENGALURU CITY IN GRANTING PARDON TO R-3 AND TREATED HIM AS APPROVER IS AN ABUSE OF PROCESS OF LAW; 2.TO QUASH THE ORDER DATED 20.08.2026 IN CALLING FOR REPORT OF PROBATION OFFICER PASSED IN S.C.NO.1319/2024, ON THE FILE OF THE HON'BLE LVIII ADDL.CITY CIVIL AND SESSIONS JUDGE AT BENGALURU CITY AS PER ANNEXURE-F AS ILLEGAL AND ABUSE OF PROCESS OF LAW.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 02.09.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before the Court calling in question the orders dated 20-08-2026 and 25-08-2026 passed by the LVIII Additional City Civil and Sessions Judge, Bengaluru, by which the concerned Court seeks report of the Probation Officer and further grants pardon to respondent No.3 and treats him as an approver in S.C.No.1319 of 2024.

2. Facts, in brief, germane are as follows: -

2.1. A crime comes to be registered on a first information by one Keval Ram Dorji, the 2nd respondent herein before Kamakshipalya Police Station, which becomes a crime in Crime No.250 of 2024 for the offences punishable under Sections 302 and 201 of the IPC. It is the case of the first informant that he was working as a Security Officer at Sattva Anugraha Apartment and on 09-06-2024, at about 8.00 a.m., the first informant/defacto complainant reported to duty at the apartment and while he was patrolling in front of the apartment, which adjoins a stream of water

drain, notices a body of a male person aged about 32 to 35 years and informs the Police. The Police officials of Kamakshipalya Police Station visit the spot, notice several injuries over the face, head, ears and on several parts of the body indicating grave assault. The fulcrum of the said complaint becomes the aforesaid crime. An inquest mahazar is conducted and during the course of investigation several accused are drawn into the dragnet of crime.

2.2. Initially, accused Nos.4, 15 to 17 were held to be allegedly guilty of the murder of the deceased Renukaswamy. The investigation continued and accused Nos.1 to 7 then crop up, in a larger conspiracy to do away with the life of the deceased. On interrogation of accused Nos.4, 15 to 17, the other accused i.e., accused Nos.1 to 3 and 5 to 14 come into the web of crime. The matter is pending trial before the concerned Court in S.C.No.1319 of 2024 after its committal and framing of charges by the concerned Court. The issue is not with regard to the merit of the matter before the concerned Court.

2.3. Respondent No.3/accused No.14 files an application under Section 307 of the Cr.P.C. before the concerned Court on the score that he is ready to become an approver. The present petitioner/ accused No.2 seeks a right to audience *qua* the application of accused No.14 seeking pardon. This prayer is rejected by the concerned Court, which leads the present petitioner to knock at the doors of this Court in Criminal Petition No.12415 of 2026. This Court dismissed the petitioner's claim by the order dated 13-08-2026, in terms of the earlier judgment of this Court in the case of **VINAY RAJASHEKHARAPPA KULKARNI v. CENTRAL BUREAU OF INVESTIGATION** reported in **2024 SCC OnLine Kar 2369**. The order is as follows:

"....

3. The petitioner-Sri.Darshan has rushed to this Court on the score that he has a right to audience before an order is passed of the concerned Court considering the application of accused No.14 to turn as an approver. The issue stands completely covered by what this Court has held in **VINAY RAJASHEKHARAPPA KULKARNI vs. CENTRAL BUREAU OF INVESTIGATION**, reported in 2024 SCC OnLine Kar 2369, Special Leave Petition against which is turned down by the Apex Court.

4. This Court has summarized the findings with regard to the right of the co-accused in an application of another co-accused turning an approver as obtaining under Section 306 of the Cr.P.C., then. The findings are as follows:

"24. The learned counsel for the respondent has also contended that a co-accused cannot challenge the order of grant of pardon to another accused to transpose himself as a witness. The said submission is also refuted by the learned senior counsel representing the petitioners. The submission and contra submission need not detain this Court for long or delve deep, as the issue bears consideration in the judgment of **KAILASH NATH AGARWAL** itself, wherein the Apex Court holds as follows:

"....

8. Mr Rana, learned counsel for the State, has raised three contentions:

"(1) The power under Section 337 of the Criminal Procedure Code exercisable by the various Magistrates mentioned therein is concurrent and the District Magistrate in the circumstances of this case was competent to grant pardon to Respondent 2.

(2) The Revision filed by the first respondent before the Civil and Sessions Judge against the order of the District Magistrate was incompetent.

(3) In any event, the grant of pardon by the District Magistrate is only an irregularity, which is cured by clause (g) of Section 529 of the Criminal Procedure Code, and as such the High Court was in error in interfering with the said order."

... ..

23. This decision of the Delhi High Court was challenged before this Court in Criminal Appeal No. 109 of 1968. In its judgment dated September 16, 1968, this Court on merits agreed with the High Court that the tender of pardon was proper. The question of the nature of the power exercised in granting pardon and the other question whether an order granting pardon was revisable by a superior court, were, however, left open. We have indicated earlier that an order granting pardon is open to revision, but whether the court whose powers are invoked for that purpose will interfere or not, is a matter depending upon the

circumstances of each case. Accordingly, we hold that the first respondent's revision before the Sessions Court was competent and reject the second contention of Mr Rana."

(Emphasis supplied)

The Apex Court holds that the order granting pardon is open to revision. It is the discretion of the Court to interfere or not. The Apex Court also observes that revisional Court can exercise suo motu powers to consider the order of grant of pardon. This Court now, in the present petition is exercising jurisdiction, under Section 482 of the Cr.P.C., and these are inherent powers which ostensibly are on a higher pedestal than that of revisional powers. But the co-accused will have a right to question procedural illegality in granting pardon, and not the order granting pardon on its merit. The issue is answered accordingly.

... ..

SUMMARY OF FINDINGS:

- (a) The second application seeking pardon under Section 306 of Cr.P.C. is maintainable, only on changed circumstances, as also, in the kind of circumstance that is projected in the case at hand.
- (b) Recording of a statement under Section 164 of Cr.P.C., prior to grant of pardon, is illegal and such procedure cannot be adopted in any case, while granting pardon.
- (c) The procedure of examination and cross-examination will be only after grant of pardon, as is held by the Apex Court supra and not any time earlier to the grant of pardon.
- (d) **The co-accused do have a right to question the order granting pardon under Section 306 of the Cr.P.C., only insofar as it pertains to any procedural aberration and not the order granting pardon on its merit."**

(Emphasis supplied)

5. Therefore in the light of the said findings, the petitioner's right is restricted or amplified only in terms of the said findings, as rendered by this Court.

6. The learned Special Public Prosecutor Sri.Prasanna Kumar appearing for the respondent-State would submit that if that be the order, the prosecution would have no objection.

7. In that light, the order passed by this Court in the case of **VINAY RAJASHEKHARAPPA KULKARNI** supra would govern the field insofar as the grant of approval and its aftermath.

Criminal Petition stands **dismissed** with the aforesaid observations."

It is thereafter that the application filed by accused No.14 is considered by the concerned Court in terms of the order dated 25-08-2026. While so doing, it has secured the report of the Probation Officer under the Probation of Offenders Act, 1958 ('the Act' for short). The report that is sought has given rise to the subject challenge before this Court in the subject petition.

3. Heard Sri Hashmath Pasha, learned senior counsel appearing for petitioner and Sri P. Prasanna Kumar, learned Special Public Prosecutor appearing for respondent No.1.

4.1. The learned senior counsel Hashmath Pasha appearing for the petitioner would vehemently contend that the concerned

Court has committed a serious illegality in calling for a report of the probation officer while considering the application of accused No.14 under Section 307 of the Cr.P.C. The report of the probation officer can be sought only at a post conviction stage for the purpose of imposition/suspension of sentence or for releasing the convicted accused on probation in terms of the Act. Therefore, the power of calling for a report was completely illegal and has vitiated the entire order. He would submit that if the Court has the power or power is given to a Court to do a particular thing, it should be done in that way and not in any other way. It is his further submission that the concerned Court has considered the good conduct of the accused, which is irrelevant and inadmissible for an application under Section 307 of the Cr.P.C.

4.2. The learned senior counsel further submit that the trial Court ought not to have taken the role of the prosecution and determined the propriety of tendering pardon. The case of the prosecution is based on eyewitness testimony and circumstantial evidence, but none of the material witnesses who have been examined so far, have said anything about the incident. Therefore,

it is unfair to accept the application of the accused No.14 as an approver.

5. *Per contra*, the learned Special Public Prosecutor appearing for the prosecution Sri P. Prasanna Kumar would vehemently refute the submission, but however would contend, except three paragraphs of the report, which can be eschewed there is nothing that can be found fault with the order that is passed. May be the concerned Court fell in error in securing the report from the hands of the probation officer, but that would not mean that the entire order gets vitiated. The entire order does not get vitiated, but this Court has the power to eschew those paragraphs and retain the order.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The afore-narrated facts and link in the chain of events are all as narrated hereinabove. What drives the petitioner to this Court is the order that has within itself certain illegality. The issue is

with regard to consideration of an application filed by accused No.14 under Section 307 of Cr.P.C - tendering of a pardon and admission as approver. The concerned Court on the application holds as follows:

" "

REASONS

6. **POINT No.1**: The Crime No.250/2024 came to be registered by the Kamakshipalya Police on 09.06.2024 for the offences punishable under Sections 302, 201 of IPC for commission of murder of deceased one Renukaswamy. Upon registration of the crime, the Kamakshipalya Police took up the investigation, during which, the applicant was arrested and interrogated as one of the accused.

7. On the completion of the investigation, the Kamakshipalya Police filed final report on 04.09.2024 as against Accused Nos.1 to 17 for the commission of offences under Section 120B, 364, 355, 384, 302, 301, 143, 147, 148, 149 r/w Section 34 of IPC. The investigation reveals that the role of the applicant acts as a crucial link and arrayed as accused No.14 in the charge-sheet.

8. In the application, it is submitted by the applicant/accused No.14 that, he is well aware of the events or incident and he has the knowledge of circumstances relating to the said offences and concerning every other person involved in this case. He further stated that, the knowledge he possess will support the prosecution case if his application is allowed and pardon is granted to him. He has also stated that, he has tried best to save the life of the deceased and tried to stop the commission of offence.

9. The applicant/accused No.14 has also stated that, post occurrence of the incident, the repentance of the acting in connivance with other co-accused has only increased and this

application is being filed after repenting the commission of the crime. The applicant/accused No.14 has narrated the privy to the offence both directly and indirectly and is ready to make full and true disclosure of the whole of the circumstances within his knowledge relating to the offence and to every other person concerned.

10. It is further stated by the applicant/accused No.14 that, he has filed this application on his own volition after repenting the commission of the offence and is ready to depose the entire disclosure of the fact within his knowledge concerning the present crime if the pardon granted to him. In that event he has voluntarily willing to accept the pardon and present application may be deemed acceptance.

11. The applicant/accused No.14 further stated that, if this application is allowed, no prejudice would be caused to the prosecution and would in turn support the case of the prosecution by acting as a crucial and vital link in establishing the guilt of the everyone as he was present at the scene of crime and he has witnessed the same. Therefore would serve as a link in revealing the commission of offence. Hence, prayed to allow the application.

12. On the other hand, the prosecution through Learned Spl. Public Prosecutor has filed memo of acceptance and submitted that, the application may be allowed.

13. On perusal of the record, it reveals that, in the present case, Accused No.14 - Pradosh S. Rao, who has filed this application is also charged with offences punishable under Sections 120-B, 143, 147, 148, 149, 201 and 302 of the Indian Penal Code.

14. On 05.08.2026, accused No.14 filed an application under Section 307 of the Code of Criminal Procedure seeking tender of pardon to him subject to the conditions stipulated therein. In the said application, he has narrated the incident substantially in consonance with the case of the prosecution and has undertaken to make a full and true disclosure of the whole of the circumstances within his knowledge. Though, in the application, accused No.14 has attempted to project that he had made an effort to save the life of the deceased, he has admitted

his involvement in the offence. He has also explained the role attributed to the other accused in the commission of the offence, as alleged by the prosecution.

15. The learned Special Public Prosecutor has filed a memo indicating that the application filed by accused No.14 supports the prosecution subject to the condition that, accused No.14 agrees to fully and truly disclose the whole of the circumstances within his knowledge relating to the offence and to every other person concerned, whether as a principal or abettor, in the commission of the offence, the application may be allowed.

16. The learned Special Public Prosecutor has further submitted that, during the course of the trial, the mother of the deceased was examined as PW.1 and though she completely supported the case of the prosecution during her examination-in-chief, during cross-examination she failed to support the prosecution version on certain crucial aspects. It is further submitted that CW.90, who was examined as PW.22 and was an important witness to the case of the prosecution, has turned hostile on certain material particulars. Under these circumstances, the prosecution apprehends that CW.91, who is cited as an eyewitness, is also not likely to support the case of the prosecution. Therefore, the prosecution is of the view that tendering pardon to accused No.14 would be in the best interest of the prosecution and would assist in the successful prosecution of the case. Accordingly, the prosecution has agreed to tender pardon to accused No.14 subject to the conditions referred to above.

17. The prosecution papers on record reveals that, the case was initially registered against unknown persons for the offences punishable under Sections 302 and 201 of the Indian Penal Code, on the basis of the complaint dated 09.06.2024 lodged by one Kevalram Durji, Security Officer of an apartment.

18. As per the charge-sheet filed by the prosecution, the facts of the case reveals that, accused No.1 was allegedly in a relationship with accused No.2. The deceased Renukassamy, a resident of Chitradurga, is alleged to have sent obscene messages from his Instagram account to accused No.1. Aggrieved by the same, accused Nos.1, 2, 3 and 10 allegedly

conspired through telephonic communication to trace and kidnap the deceased. Subsequently, the deceased was allegedly abducted and brought to Bengaluru and confined in a shed near RR Nagar. It is further alleged that the accused assembled in a restaurant, discussed the matter and conspired together and thereafter, the accused No.3 arrived at the shed and began beating the deceased with the stick. Accused No.5 also struck him and threw him on the ground and Accused No.4, 6 and 7 assaulted him with branches. Accused No. 9 struck the deceased on the head and used an electric shock torch on his chest, back, arm and legs. On the same day, at about 4.45 p.m., accused No.2, along with accused Nos.1, 3, 10, 11 and the applicant namely accused No.14, allegedly arrived at the shed in two Scorpio vehicles and the deceased was further brutally assaulted. It is alleged that accused No.2 punched the deceased at the stomach, pressed his chest with his shoes and kicked his left ear and head causing bleeding injuries. Accused No.5 allegedly caused the deceased's head to hit against the bumper of a vehicle resulting in bleeding from the head. Accused No.1 allegedly slapped the deceased with her chappals and forced him to touch her feet while inducing the others to kill him.

19. Insofar as the applicant namely accused No.14, is concerned, it is specifically alleged that accused No.2 directed accused No.14 to check the mobile phone of the deceased, which allegedly revealed that the deceased had sent obscene messages to several women. It is further alleged that the other accused along with accused No.14 continued to assault the deceased with their hands, wooden sticks, batons, nylon ropes and other articles thereby causing severe injuries to his back, arms, legs and chest. The deceased ultimately succumbed to the injuries at the spot. Thereafter, accused Nos.4 and 5 allegedly shifted the body to the security room inside the shed.

20. It is further alleged that, the accused No.2 paid `30,00,000/- to accused No.14, `10,00,000/- to accused No.10 and `5,00,000/- to accused No.11 to suppress the evidence and avoid implicating him. Subsequently, in the early hours of 09.06.2024, the other accused along with accused No.14 allegedly transported the dead body in a Scorpio vehicle brought by accused No.11 and dumped it near the storm-water drain in front of an apartment.

21. The post-mortem report of the deceased indicates that, he had sustained 39 injuries, of which 13 were bleeding injuries, and that 17 ribs were fractured. The allegations made by the prosecution coupled with the number of injuries sustained by the deceased and the number of fractures caused to him clearly reflect the gravity and brutality of the offence.

22. Considering the aforesaid factual aspects of the case, the Court has meticulously considered the application filed by accused No.14 and the necessity of securing his evidence as an approver. Though the prosecution has cited as many as 272 witnesses in the charge sheet, the learned Special Public Prosecutor has submitted that, approximately 150 witnesses proposed to be examined by them. However, the learned Special Public Prosecutor has fairly submitted that, the prosecution lacks direct evidence relating to the incident, as the mother of the deceased was examined as PW.1, though she completely supported the case of the prosecution during her examination-in-chief, during cross-examination, she failed to support the prosecution version on certain crucial aspects and that CW.90, who was examined as PW.22 and was an important witness to the case of the prosecution, has turned hostile on certain material particulars. Under these circumstances, the prosecution apprehends that CW.91, who is cited as an eyewitness, is also not likely to support the case of the prosecution. Therefore, the prosecution is of the view that tendering pardon to accused No.14 would be in the best interest of the prosecution and would assist in the successful prosecution of the case. Accordingly, the prosecution has agreed to tender pardon to accused No.14 subject to the conditions referred to above.

23. The Court has also considered the prosecution papers consisting of statements of the witnesses recorded and the documents produced before the Court. The prosecution is relying upon several pieces of circumstantial evidence and digital evidence to establish the charges against the accused. Prima facie, however, it appears that the prosecution lacks direct eyewitnesses to the incident. Therefore, the contention of the learned Special Public Prosecutor that the evidence of accused No.14 as an approver is necessary to advance the case of the prosecution appears to be probable.

24. As per the role attributed to accused No.14 in the alleged crime, he is stated to have accompanied the principal offenders immediately after the deceased was abducted and brought to the shed. Therefore, as per the case of the prosecution, accused No.14 was not merely present at the scene but also participated in the crime along with the other accused and his alleged role continued from the time of the deadly assault upon the deceased until the disposal of the dead body. Therefore, if accused No.14 was in fact an accomplice and is ready to disclose fully and truly the circumstances within his knowledge before the Court, his evidence would not only assist the prosecution but also assist the Court in properly adjudicating the matter, as it would facilitate ascertainment of the truth and enable the Court to arrive at a proper conclusion with regard to the allegations and the defence raised by the accused. Hence, the Court is of the opinion that, having regard to the nature of the evidence proposed to be adduced by the prosecution, the evidence of accused No.14 would throw considerable light on the disputed aspects of the case and assist the Court in arriving at a correct conclusion.

25. In the application filed by accused No.14, he has stated that, he has filed the application on his own volition, after repenting his involvement in the commission of the offence, and that he is ready to make a complete disclosure of all facts within his knowledge. He has expressed his willingness to accept the pardon and has stated that the application itself may be treated as his acceptance of the conditions of pardon. He has reiterated that his evidence would assist the prosecution and that it would constitute a crucial and vital link in establishing the guilt of the other accused, as he had witnessed the entire incident.

26. The application when filed on 05.08.2026, it was only signed by the learned counsel for the accused No.14. Thereafter, the scanned copy of the application was sent to the Central Prison for getting the signature of the accused No.14. After getting the signed application and after getting the confirmation that, the accused No.14 fully knowing the contents of the application, the application filed by him under Section 307 of Cr.PC is taken up for consideration.

27. In order to ascertain his willingness and voluntariness, the Court has personally questioned the accused No.14 on 17.08.2026, 18.08.2026 and 20.08.2026. The accused No.14 consistently confirmed that, he had voluntarily filed the application and reiterated the contents thereof. He further admitted that he is well aware of the consequences of the grant of pardon.

28. The Court has specifically explained to him that he would be required to remain in custody until the conclusion of the trial and that, if he failed to make a full and true disclosure of the facts relating to the case, he could be placed back in the position of an accused and would also be liable to be prosecuted for giving false evidence. Even after the consequences were explained to him, the accused confirmed his willingness and reiterated that he wanted to become an approver and was ready to make a full and true disclosure of the whole of the circumstances within his knowledge. He has also confirmed that, he has filed this application without any influence or pressure. Therefore, the Court is satisfied that the offer made by accused No.14 to become an approver is voluntary and is not the result of any coercion, collusion, undue influence or pressure exerted either by the prosecution or by any other person.

29. As per the case of the prosecution, the accused No.14 was closely associated with the principal accused. Despite such close association, however, in his application he has narrated the role of the principal accused and other accused persons substantially in the manner alleged by the prosecution. In criminal trial, the core goal of the Court is to discover the truth by weighing evidence and the fact. Therefore, the Court is of the opinion that, if pardon is granted to accused No.14, he is likely to make true, complete and honest disclosure of the facts within his knowledge, which would assist the Court in the proper administration of justice.

30. It is true that, the allegations made against accused No.14 are serious and include the heinous offence punishable under Section 302 of the Indian Penal Code. Therefore, the Court has seriously considered whether this accused is entitled to the grant of pardon. However, even according to the case of the prosecution, there was no direct motive attributable to accused No.14 for committing the murder of the deceased. It

appears that, as the persons interested in committing the crime were in close contact with accused No.14, he joined them.

31. Undoubtedly, as per the case of the prosecution, the accused No.14 was also involved in assaulting the deceased, which cannot be viewed lightly. However, considering the circumstances under which he is alleged to have become involved in the crime, and having regard to the fact that he has no criminal antecedents, this accused cannot be considered to be the principal offender or the worst offender as compared to the other accused.

32. Taking note of these aspects and more particularly, the fact that, the prosecution lacks direct evidence to establish the crime and bring home the guilt of the actual perpetrators by presenting a complete picture of the incident, the Court is of the opinion that, if pardon is granted to accused No.14, the prosecution would at least have corroborative evidence to assist it in bringing home the guilt of the real culprits.

33. There is nothing on record to indicate that accused No.14 intends to falsely implicate any other accused, twist the acts or shield the major conspirators, or that he intends to give a tailored version before the Court. On the contrary, he has already narrated in his application the facts which he proposes to disclose in his evidence before the Court.

34. While considering the question of tendering pardon to an accused, the nature and value of the evidence likely to be secured from such accused is also an important factor requiring consideration. As stated earlier, according to the case of the prosecution, the accused No.14 was present at the scene of the crime from the time when the deceased was brought to the shed until the disposal of his dead body. Therefore, the accused No.14 can be considered a suitable person to be admitted as an approver for the purpose of securing a true and complete disclosure of the facts and circumstances relating to the incident.

35. The Court has also considered the intention of accused No.14 in filing the present application. It is true that by the time the application came to be filed, the evidence of 23 witnesses had already been recorded. Thus, the accused has

filed the application at a stage subsequent to the commencement of the trial and has not chosen to file it at its inception. However, in the application, he has stated that, after the occurrence of the incident, his repentance for having acted in connivance with the other co-accused increased and that the present application is being filed after repenting his involvement in the crime.

36. The Court has also personally enquired into the background of accused No.14. The accused No 14 has stated that he has completed his studies in MBA (Finance) and he was working prior to the incident. The learned Special Public Prosecutor has submitted the Investigation Officer Report and submitted that accused No.14 has no criminal antecedents whatsoever. Considering the fact that, the accused No.14 has no criminal antecedents, that he is an educated and qualified professional who was employed earlier, and having regard to his age, the contention of accused No.14 that, his feeling of guilt and repentance have led him to voluntarily come forward to become an approver appears to be probable. Therefore, although there is some delay in filing the application, such delay by itself cannot be a ground to reject the prayer for pardon or to decline to admit him as an approver.

37. The Court is fully conscious of the fact that, while tendering pardon and admitting an accused as an approver, the interest of the other accused is equally important as that of the prosecution. The grant of pardon and admission of a co-accused as an approver should not prejudice the defence of any other accused.

38. Therefore, the Court has also called for a report from the Probation Officer regarding the nature, conduct and family background of the accused No.14. The report indicates that accused No.14 is a married man having a family consisting of widowed mother, wife and two female children and entire family is depending on him. The report further indicates that, he was employed in a private company as a manager. It is also noted in the report that, the accused is having good relationship and conduct in the society and also having good behaviour with the neighbours. The Probation Officer's report further discloses his family background, professional life and his conduct prior to and

during the trial, which shows that, the accused No.14 is having good conduct and behaviour in the society.

39. Therefore, the Court is satisfied that, if accused No.14 is admitted as an approver, he is not likely to falsely implicate the other accused or depose to a tailored version by twisting the facts. Having regard to the background and antecedents of accused No.14, in the opinion of the Court, admitting him as an approver would not cause prejudice to any of the other accused. On the contrary, the other accused would have a full opportunity to cross-examine accused No.14 when he is examined as a witness, thereby subserving the interest of justice and assisting the Court in discovering the truth and arriving at an appropriate decision.

40. In view of the reasons stated above, the Court is of the considered opinion that, the evidence of accused No.14 is necessary for the prosecution and that his evidence would assist the Court in discovering the truth. His admission as an approver would not prejudice any of the rights of the other co-accused.

41. The contents of the application which has been narrated by the accused No.14 Pradosh S Rao indicates that, there is definite role being played by him and other coaccused in the commission of alleged offences. After filing this application, thrice the accused No.14 was enquired whether he confirmed that, he knows about the consequences and the seriousness of filing this application, which would arise after tendering the application. Even then, he proceeded to tender his application for pardon and after giving a specific time for his retraction, his application is taken up for consideration.

42. I have bestowed my anxious reading to the entire contents of the application coupled with the prosecution papers, which are available on record. By looking to the aforesaid aspects, the contentions urged by the applicant/accused No.14 filed under Section 307 of Cr.PC seems to be justifiable. Even otherwise, if the application is allowed and if the applicant / accused no.14 later on retracts from his evidence, then obviously the court will have the power to summon him and array him as accused at the later stage of the case.

43. In view of the discussions made supra, this is a fit case for exercise of jurisdiction under Section 307 of the Code of Criminal Procedure for tendering pardon to accused No.14, who is alleged to be an accomplice. The application squarely deserves to be allowed subject to the conditions stated hereunder. Accordingly, the **point No.1** is answered in the **Affirmative**.

44. **POINT NO.2:** For the above stated reasons, I proceed to pass the following:

ORDER

The application filed by accused No.14 Mr.Pradoosh S Rao under Section 307 of the Code of Criminal Procedure, is allowed.

Pardon is tendered to the accused No.14 and he is admitted as an approver, subject to the following conditions;

- (i) Accused No.14 shall disclose full and true disclosure of the whole of the circumstances within his knowledge relating to the offences and to every other person at the time of his examination as a witness.
- (ii) Accused No.14 shall be retained in the custody until the conclusion of the trial.
- (iii) If accused No.14 willfully conceals anything essential or gives any false evidence or fails to comply with the conditions imposed herein, his status shall be changed back to that of an accused and he shall liable to be tried for the offences alleged against him by the prosecution, as well as for giving false evidence, in accordance with law.

Office shall furnish a free copy of this order to the accused No.14 forthwith. The copy shall be forwarded to the accused No.14 through the Jail Authorities by email and post."

8. In the entire order, up to the concerned Court accepting the application under Section 307 of the Cr.P.C., it has considered the application on its merit. It slips down from paragraph 37 onwards. Paragraphs 37, 38 and 39 are where the Court calls for a report from the probation officer regarding the nature, conduct and family background of accused No.14. The report from the Probation Officer can be called for under Section 4 of the Act. I, therefore, deem it appropriate to notice the provision. It reads as follows:

“4. Power of court to release certain offenders on probation of good conduct.—(1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that the court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond.

(2) Before making any order under sub-section (1) is made, the court shall take into consideration the report, if any, of the probation officer concerned in relation to the case.

(3) When an order under sub-section (1), the court may, if it is of opinion that in the interests of the offender and of the public it is expedient so to do, in addition pass a supervision order directing that the offender shall remain under the supervision of a probation officer named in the order during such period, not being less than one year, as may be specified therein, and may in such supervision order or impose such conditions as it deems necessary for the due supervision of the offender.

(4) The court making a supervision order under sub-section (3) shall require the offender, before he is released, to enter into a bond, with or without sureties, to observe the conditions specified in such order and such additional conditions with respect to residence, abstention from intoxicants or any other matter as the court may, having regard to the particular circumstances, consider fit to impose for preventing a repetition of the same offence or a commission of other offences by the offender.

(5) The court making a supervision order under sub-section (3) shall explain to the offender the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to each of the offenders, the sureties, if any, and the probation officer concerned."

(Emphasis supplied)

In the light of the aforesaid provision, a report from the Probation Officer can be called only on three circumstances, not during trial, but post conviction. The first circumstance would be, when the sentence has to be drawn post conviction; the next, when suspension of sentence should happen and the third, when the

convicted accused should be released on probation. All the three instances are yet to come about. Therefore, the concerned Court has misdirected itself in law, ignoring the mandate of the provisions of the Act and has chosen to *suo motu* call for a report from the hands of the Probation Officer. This act, on the part of the Court was wholly unnecessary, apart from it being in blissful ignorance of the tenets of law.

9. Taking the submission of the learned Special Public Prosecutor Sri P. Prasanna Kumar, those paragraphs could be eschewed, but it has now become an integral part of the order. Though the reason may not have been upon the report of the probation officer, but the report of the probation officer is called for which was uncalled for, for the Court to have called for it. In that light, as it is a settled principle of law that if a particular act has to be done in a particular manner as ordained in a statute, the authority or any court interpreting the said statute cannot deviate from the procedures stipulated therein. The principle is now too well-etched in precedential history right from the judgment of the House of Lords in the case of **TAYLOR v. TAYLOR** reported in

(1875) 1 Ch D 426, which is followed by the Privy Council in the case of **NAZIR AHMAD v. KING EMPEROR** reported in **AIR 1936 PC 253**, both of which are followed by the Apex Court in the case of **BABU VARGHESE v. BAR COUNCIL OF KERALA**¹, wherein it is held as follows:

"....

31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in *Taylor v. Taylor* [(1875) 1 Ch D 426 : 45 LJCh 373] which was followed by Lord Roche in *Nazir Ahmad v. King Emperor* [(1936) 63 IA 372 : AIR 1936 PC 253] who stated as under:

"[W]here a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all."

32. This rule has since been approved by this Court in *Rao Shiv Bahadur Singh v. State of V.P.* [AIR 1954 SC 322 : 1954 SCR 1098] and again in *Deep Chand v. State of Rajasthan* [AIR 1961 SC 1527 : (1962) 1 SCR 662] . These cases were considered by a three-Judge Bench of this Court in *State of U.P. v. Singhara Singh* [AIR 1964 SC 358 : (1964) 1 SCWR 57] and the rule laid down in *Nazir Ahmad case* [(1936) 63 IA 372 : AIR 1936 PC 253] was again upheld. This rule has since been applied to the exercise of jurisdiction by courts and has also been recognised as a salutary principle of administrative law."

(Emphasis supplied)

¹ (1999) 3 SCC 422

10. The Apex Court in **BABU VARGHESE** *supra* follows the afore-quoted two judgments of the House of Lords and the Privy Council and holds that if a particular act has to be done in terms of the statute, it must be done in the very manner and not in any other manner. The route taken by the concerned Court may be out of concern, but the concern is contrary to the statute. Therefore, the said procedure adopted by the concerned Court undoubtedly vitiates the order. On this short score, I deem it appropriate to remit the matter back to the hands of the concerned Court, giving it a short time to pass an order afresh, without reference to the report of the probation officer. It is made clear that the direction is to pass an order afresh and not to re-hear the application all over again.

11. Insofar as the other submissions of the learned senior counsel for the petitioner is concerned, all that would touch upon the merit of the matter; merit this Court means, the merit of the seeking of pardon, which the accused cannot challenge in the light of the judgment of this Court in **VINAY RAJASHEKHARAPPA**

KULKARNI v. CENTRAL BUREAU OF INVESTIGATION reported
in **2025 SCC Online KAR 7821**.

12. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is **allowed in part**.
- (ii) The orders dated 20-08-2026 and 25-08-2026 passed by the LVIII Additional City Civil and Sessions Judge, Bengaluru in S.C.No.1319 of 2024 stand obliterated and the matter is remitted back to the hands of the concerned Court to pass an order afresh on the application under Section 307 of the Cr.P.C. within one week from the date of receipt of the copy of this order and regulate its procedure, taking the issue to its logical conclusion. While so doing, the Court shall bear in mind the observations made in the course of the order.

Consequently, I.A.No.1 of 2026 also stands disposed.

Sd/-
(M.NAGAPRASANNA)
JUDGE

BKP
CT:MJ