



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

CRIMINAL PETITION NO. 17538 OF 2025

BETWEEN:

1. SRI B.A. BASAVARAJA
S/O LATE ANJINAPPA
AGED ABOUT 61 YEARS
R/AT NO.93/94,
SHANTINIKETANA ROAD
CHANDRAIAH LAYOUT,
MEDAHALLI, BANGALORE - 560 049.

... PETITIONER

(BY SRI SANDESH J. CHOUTA, SENIOR ADVOCATE FOR
SRI HEMANTH KUMAR D., ADVOCATE)

AND:

1. STATE BY BHARATHINAGAR POLICE
ST JOHNS CHURCH ROAD
PULAKESHINAGAR SUB DIVISION
BANGALORE - 560 005
PRESENTLY INVESTIGATE BY CID BANGALORE

...RESPONDENT

(BY SRI B.N. JAGADEESHA, SPECIAL PUBLIC PROSECUTOR)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF BHARATIYA NAGARIKA SURAKSHA SANHITA 2023, PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN CRIME NO.73/2025 ON THE FILE OF BHARATHINAGAR POLICE, FOR OFFENCE PUNISHABLE UNDER SECTION 103 AND 190 OF BNS 2023.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED ON 29.01.2026 AND COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

Digitally
signed by
VIDYA G R
Location:
HIGH
COURT OF
KARNATAKA



C.A.V. ORDER

PER: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

The petitioner - accused No.5 in Crime No.73/2025 pending before Bharathi Nagar Police Station on the file of X Additional Chief Metropolitan Magistrate at Mayohall, Bangalore City for the offences punishable under Sections 103 and 190 of Bharatiya Nyaya Sanhita 2023 [BNS] has filed the present petition seeking to be enlarged on bail in the event of his arrest.

2. At the outset, it is necessary to note that the petitioner had approached the trial Court and sought for grant of anticipatory bail which came to be rejected by order dated 23.12.2025.

3. The petitioner has now approached this Court seeking for grant of anticipatory bail under Section 482 of Bharatiya Nagarik Suraksha Sanhita 2023 [BNSS]. It is necessary to take note that the petitioner had initially moved the Vacation Bench seeking for grant of interim



anticipatory bail and was granted interim anticipatory bail by order dated 26.12.2025. The operative portion of the order reads as follows:-

- "i) IA.I of 2025 filed under Section 482 of BNSS-2023 is allowed;*
- ii) Petitioner shall be released on bail in the event of his arrest in Crime No.73 of 2025, registered by Bharathi Nagar Police Station upon executing a self for Rs.5,00,000/- with two sureties for the likesum to the satisfaction of the investigating officer;*
- iii) Petitioner shall assist the investigating officer for investigation;*
- iv) Petitioner shall not tamper or threaten the prosecution witnesses in any manner;*

For filing objections, if any to the main petition, list the matter on 06th January, 2026."

4. The petitioner is now seeking for confirmation of interim anticipatory bail by way of an order of regular anticipatory bail.

5. The brief facts of the case are that the alleged incident is stated to have taken place on 15.07.2025 in which allegedly about eight to nine assailants assaulted



the informant's son, Shivaprakash @ Biklu Shiva at 8.10 p.m. near his house with "long" and "machhu", which resulted in the death of her son.

6. The informant had named Jagadish, Kiran, Vimal, Anil and others and specifically stated that all such accused upon the instigation of accused No.5, i.e. the petitioner herein had fatally assaulted and murdered her son and accordingly had sought appropriate action.

7. The information of the informant which was registered as a FIR further would narrate that there was a dispute with respect to property purchased by the informant's son at Kithaganur Village. It is further made out that the accused had got a General Power of Attorney in his favour and Jagadish, who is now arrayed as one of the accused had called and threatened the deceased and had asked him to make over General Power of Attorney in his name, failing which, he would not allow the deceased to stay alive. It is made out that the deceased had



subsequently made out a complaint stating that there was threat to his life from Jagadish @ Jagga, Kiran and Byrathi Basavaraj (petitioner herein). The informant had further narrated that the deceased often at home had stated 1that there was threat to his life from Jagadish, Kiran, Vimal and Byrathi Basavaraj.

8. In the said complaint, there is narration of events on the fatal day.

9. The following is the timeline of other relevant details of events and legal proceedings which is extracted in the Table hereunder:-

<u>DATES</u>	<u>EVENTS</u>
18.02.2025	Shivaprakash @Biklu Shiva submitted a written complaint to the Commissioner of Police, Bengaluru City, against Sri.Byrathi Basavaraj(MLA K.R. Pura Assemby, Sri. Jagadish @ Jagga, Sri. Kiran and their associates for threatening, extortion, land grabbing/mafia, criminal trespass and criminal conspiracy, among other offences.
25.03.2025	The deceased (Shivaprakash) lodged a complaint in Ramamurthy Nagara PS, Bangalore, following a murder attempt against him by unknown persons (approximately 8 to 10 members) mentioning the name of Jagadish @ Jagga alleged close associate



	with the Petitioner.
15.07.2025	The mother of the deceased, Smt. Vijayalakshmi filed a complaint against the accused persons including the Petitioner. Based on the same complaint, Crime No.73/2025 was registered in Bharatinagar PS.
18.07.2025	Petitioner filed CrI.P. No.10290/2025 seeking to quash the FIR in Crime No.73/2025. This Court had passed an order directing the petitioner to appear before Respondent No.1. Pursuant to the order of this Court, the Petitioner appeared before the Investigation Officer for the purpose of investigation on 19.07.2025 and 23.07.2025.
24.07.2025	The investigation was transferred from Local Police to CID.
02.08.2025	The Deputy Superintendent of Police, CID submitted a proposal for invocation of KCOCA in Crime No.73/2025.
11.08.2025	The Enquiry Report stated that, on enquiry in the complaint dated 18.02.2025 filed by the complainant (deceased Shivaprakash), when the petitioner Byrathi Basavaraj was contacted, he denied and refused the allegations made against him and had not co-operated with the enquiry. Further, it concluded that the deceased did not have a proper background and recommended action against the complainant (Shivaprakash) himself. The Enquiry Report was submitted by ACP, Whitefield to DCP, Whitefield on 11.08.2025 after the murder incident of Shivaprakash @ Biklu Shiva on 15.07.2025 and the same was sent to Commissioner of Police on 20.08.2025 by Deputy Commissioner of Police, Whitefield, Bengaluru.



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12.08.2025	CID, vide order dated, 12.08.2025 granted approval to invoke KCOCA in Crime. No. 73/2025.
13.08.2025	This Court had passed an order in Crl.P No.10290/2025 directing the Respondent-State not to take any coercive steps against the Petitioner and the Petitioner was required to co-operate with the investigation. The respondent State was further granted liberty to seek modification of the order if need arose.
18.09.2025	The Respondent State through CID filed an interim application under Section 528 of BNSS in Crl.P. No. 10290/2025 for vacating order of stay dated 13.08.2025 on the grounds that the order passed by this Court was creating hurdles for further investigation; that the investigation revealed that the petitioner had not been co-operating with the investigation and that his custodial interrogation was necessary to complete the investigation.
14.10.2025	Petitioner filed W.P.No.31304/2025 seeking to quash the order dated 12.08.2025, which granted permission to invoke KCOCA against him in Crime No.73/2025.
30.10.2025	The Petitioner had filed I.A No.1/2025 in W.P No.31304/2025 seeking anticipatory bail in the event of his arrest.
19.12.2025	This Court allowed W.P.No.31304/2025 and quashed the order dated 12.08.2025 invoking KCOCA, but rejected the application, I.A. No.1/2025 filed in W.P.31304/2025 seeking anticipatory bail.
19.12.2025	The Petitioner withdrew Criminal Petition No. 10290/2025.



20.12.2025	Petitioner filed Crl.Misc.No.11492/2025 before the Court of LXXXI Additional City Civil and Sessions Judge, Bengaluru [CCH082] seeking anticipatory bail under Section 482 of BNSS.
22.12.2025	CID filed chargesheet as against 18 accused persons reserving liberty to file chargesheet against the Petitioner (Byrathi Basavaraj, accused No.5) and against accused No.20 Ajeeth, in due course.
23.12.2025	Learned Sessions Judge (CCH-82) rejected the anticipatory bail filed by the Petitioner in Crl. Misc. No.11492/2025.
24.12.2025	Petitioner filed the present petition before this Court in Crl.P.No.17538/2025 u/s 482 BNSS seeking Anticipatory bail and also for interim anticipatory bail u/s 482 BNSS pending consideration of main petition.
26.12.2025	This Court granted interim anticipatory bail filed in the present petition [Crl.P.No.17538/2025] pending disposal of main petition for anticipatory bail.

10. Heard both sides.

11. At the outset, it is to be noticed that the petitioner is seeking to be enlarged on anticipatory bail in the backdrop of rejection of similar application before the Special Court. Though this Court in its order dated 26.12.2025 had enlarged the petitioner on interim anticipatory bail, this Court is now to decide whether to enlarge the petitioner on regular anticipatory bail.



12. It is to be noted that Sri B.N.Jagadeesha, learned Special Public Prosecutor had in detail attacked the order granting interim anticipatory bail on various grounds including:-

(i) that the order was passed on the very first day of the matter being listed before the Court in the Vacation Bench without affording sufficient opportunity;

(ii) that the memo was filed to the effect that the Special Public Prosecutor was not in the Country on the said date and accordingly, time was sought and Court ought to have granted reasonable accommodation by adjourning the matter;

13. On the other hand, the learned Senior Counsel Sri Sandesh Chouta appearing on behalf of the petitioner submitted that once interim anticipatory bail has been granted, unless the same was challenged before the



appropriate Court, it would not be open to canvass legality of such order in the present proceedings.

14. The submission of learned Senior Counsel Sri Sandesh Chouta appearing on behalf of the petitioner is well taken and this Court finds it unnecessary to enter into the validity of the order granting interim anticipatory bail.

15. Further, the mere grant of interim anticipatory bail being in the nature of transitional order till final order is passed, the same would not confer any vested right to the petitioner for grant of anticipatory bail in the main matter.

16. However, it would not be out of place to observe that the Court may take an independent decision, as interim anticipatory bail granted at the first instance was at a point of time where the Court did not have the benefit of the stand of respondents. As interim anticipatory bail was granted on the very first day in the absence of representation by the Special Public Prosecutor



who was handling the matter and in the presence of learned High Court Government Pleader, who had no instructions on the stated day, but appeared and put in a symbolic presence.

17. It is settled position of law that grant of anticipatory bail is in fact an exercise of extraordinary power and unlike the principle of '*bail is a rule*', such jurisprudence cannot be extended to anticipatory bail. However, circumstances may warrant grant of anticipatory bail and depends on the cumulative factors, such as, requirement of custodial interrogation, ability of the accused to influence investigation, apprehended threat to witnesses and efforts and capacity to derail investigation, apart from other myriad circumstances.

18. The position of the petitioner in the society, viz., Member of the Legislative Assembly, that he is a Former Minister would have a bearing on his capacity to interfere with the investigation. In the present case,



learned Special Public Prosecutor during the course of arguments has repeatedly asserted that the petitioner is well connected and wields influence over the Police Authorities and it is on such premise that the investigation itself was withdrawn from the State Police and transferred to the CID.

19. While the learned Senior Counsel Sri Sandesh Chouta appearing on behalf of the petitioner would submit that in fact, the petitioner belongs to the Opposition Party and there is political malice of initiating prosecution against him. However, there is no gainsaying that the petitioner by virtue of his position wields sufficient influence notwithstanding that he is a Member of the Legislative Assembly belonging to the Opposition Party.

20. Learned Special Public Prosecutor submitted that the influence of the petitioner was all pervasive.

21. While the respondent Police have asserted in their application for vacating stay filed on 18.09.2025 that



they require petitioner for custodial interrogation on the ground that the petitioner has not been co-operating with the investigation.

22. What is also a matter of record is that there was previous animosity between the petitioner and the deceased. The deceased had made out a complaint to the Commissioner of Police dated 18.02.2025 and specifically asserted that the petitioner, accused No.1 and his nephew Kiran (accused No.2) are attempting to kill him if he did not give up possession of the property and cancel the existing General Power of Attorney. There is a specific averment in writing that there have been threats against him and if any untoward incident happens, then the petitioner, accused No.1 and accused No.2 are responsible for the same.

23. The said complaint also details the political influence wielded by the petitioner.



24. Perused the case papers and there is a reference to enquiry on the said complaint. The Prosecution has also in the list of dates filed on 19.01.2026 referred to the enquiry on the complaint.

25. Irrespective of the fate of the enquiry, which appears to have been closed only subsequent to the death of the deceased on 11.08.2025, the facts relating to such complaint being made out by the deceased would add to the entirety of the context in the backdrop of which the present case is to be looked into.

26. *Prima facie*, such material would indicate that the petitioner cannot merely wash his hands off as if he is a stranger and has no relationship to the incident or the deceased.

27. The petitioner would strenuously contend that he has been subjected to detailed interrogation on two dates and has co-operated and there is no warrant for further custodial interrogation. It is submitted that the



respondent CID has not summoned the petitioner and accordingly, to state that there is necessity for custodial interrogation is unfounded. It is also contended that the respondent Police cannot contend that the petitioner has not co-operated in light of the petitioner having right to remain silent.

28. However, it is contended that notwithstanding the statements made that the petitioner has co-operated, that the petitioner has sought to mislead the investigation by feigning ignorance of accused No.1 and other accused, while there is material to prove to the contrary as is available in the investigation records.

29. Perused the investigation records and also perused the Call Detail Records [CDR] and it could be stated that the stand of the Prosecution deserves *prima facie* acceptance and requires further enquiry.

30. Learned Senior Counsel Sri Sandesh Chouta appearing on behalf of the petitioner during the course of



arguments had submitted that the name of the petitioner is not mentioned by the mother of deceased and during the Media briefing, the mother of the deceased had specifically stated that the Police had asked her to mention the name of the petitioner.

31. Sri B.N.Jagadeesha, learned Special Public Prosecutor appearing on behalf of the respondent State while referring to the statement under Section 164 of Cr.P.C. submits that an answer to such allegation is found in the statement under Section 164 of Cr.P.C.

32. Having perused the statement under Section 164 of Cr.P.C., the Court is of the view that the explanation to the factual context referred to above is *prima facie* made out in the said statement. However, it would not be appropriate to detail the specifics, as the same would affect the investigation.

33. Suffice it to say that the contention of the Prosecution based on the statement under Section 164 of



Cr.P.C. that the mother of deceased is under fear has sufficient force and cannot be brushed aside.

34. It is the case of the Prosecution that though the petitioner has contended that he has co-operated with investigation, despite his right against self-incrimination, he cannot attempt to mislead the Investigating Authority. It is submitted that the petitioner has feigned ignorance regarding Jagadish @ Jagga, while the investigation records contains material in the form of Photograph and CDRs to demonstrate that the petitioner is attempting to mislead the investigation.

35. Perused the investigation records, including the CDRs as well as Photograph. Without referring in detail to the material presented for perusal of the Court, it could be stated that the CDRs contain information which the petitioner is required to explain. There is sufficient force in the assertion of the Prosecution based on the



investigation records, that the petitioner has much to explain.

36. Accordingly, the manner of confronting of investigation records is to be left to the investigation to be made in an appropriate fashion. It is the settled position that the accused cannot dictate how the interrogation or enquiry must be made.

37. Sri Sandesh Chouta, learned Senior Counsel appearing on behalf of the petitioner repeatedly has asserted that the Court has the power to give limited custody and petitioner is willing to undergo further interrogation as may be ordered without necessarily relegating the petitioner to custodial interrogation.

38. It is also necessary to be cognizant of the fact that custodial interrogation is qualitatively different from interrogation of an accused, who has had the benefit of an order of anticipatory bail. The observations of Apex Court



in **STATE REP. BY THE C.B.I. v. ANIL SHARMA¹** at para-6
would be apt and is reproduced hereinbelow:-

"6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

¹(1997) 7 SCC 187



39. Accordingly, the contention of the petitioner that Court must consider granting of limited custody, as the petitioner is willing to undergo further interrogation as a fall back argument while opposing anticipatory bail, requires to be rejected.

40. It would be useful to take note of the observations of the Apex Court relating to a broad principle of non-interference in investigation including the manner of interrogation. The observation of the Apex Court in **P. CHIDAMBARAM v. DIRECTORATE OF ENFORCEMENT² [P. Chidambaram]** at para-66 reads as hereunder:-

"66. As held by the Supreme Court in a catena of judgments that there is a well-defined and demarcated function in the field of investigation and its subsequent adjudication. It is not the function of the court to monitor the investigation process so long as the investigation does not violate any provision of law. It must be left to the discretion of the investigating agency to decide the course of

²(2019) 9 SCC 24



investigation. If the court is to interfere in each and every stage of the investigation and the interrogation of the accused, it would affect the normal course of investigation. It must be left to the investigating agency to proceed in its own manner in interrogation of the accused, nature of questions put to him and the manner of interrogation of the accused."

41. It is to be noticed that the Prosecution has vehemently contended that there is a requirement of custodial interrogation in order to confront certain material gathered through investigation to the accused. The perusal of the investigation material placed before the Court *prima facie* does reveal that there are substantial records which may be required to be confronted to the accused as a part of the investigation. Such material consists of CDRs, reports of enquiry on the complaint of the deceased and photograph of the petitioner alongwith accused. No doubt, such evidence is a matter to be subjected to further scrutiny, however, the request of the respondent State for custodial interrogation cannot be brushed aside.



42. The interrogation of powerful accused, such as the petitioner, who is highly influential armed with an order of anticipatory bail may not be as effective. The decision as to the manner of investigation must be left with the Investigation Authority and the Court cannot sit in judgment over the same.

43. It is necessary to notice that the observations of the Apex Court in ***P. Chidambaram (supra)*** relating to the grant of anticipatory bail being limited to exceptional cases. The observations made at para-69 reads as follows:-

"Grant of anticipatory bail in exceptional cases

69. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 CrPC is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the



court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of the applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy."

44. Considering that the grant of anticipatory bail is an extraordinary relief that may be extended, the Court is of the opinion that the political power that the petitioner wields and noticing that the deceased and his mother stays within the same Constituency, there is a possibility of fair investigation being hampered and which may also be a reason to deny anticipatory bail.

45. Accordingly, the petition is ***rejected.***



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46. In light of the above, the interim anticipatory bail granted by this Court on 26.12.2025 stands discharged.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

VGR