HC-KAR

NC: 2026:KHC:59267
CRL.P No. 16018 of 2026

CNR: KAHC010731962026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL PETITION NO. 16018 OF 2026

BETWEEN:

SYED SHABBIR @ SHABBIER PASHA,
S/O SYED IBRAHIM,
AGED ABOUT 32 YEARS,
R/AT 2ND CIRCLE,
RAGIGUUDE, KEB COLONY,
NANDAGUDI VILLAGE AND POST,
HOSAKOTE TALUK,
BANGALORE RURAL - 562 122.

…PETITIONER

(BY SRI MADHU E.K., ADVOCATE)

Digitally signed by
LAKSHMINARAYAN N
Location: High Court
of Karnataka

AND:

STATE OF KARNATAKA
BY MALAVALLI TOWN POLICE,
MANDYA DISTRICT.
REPRESENTD BY
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.

…RESPONDENT

(BY SRI G.S. NAGHARISH, HCGP)

THIS CRL.P. IS FILED U/S 439 OF CR.PC (FILED U/S 483 BNNS) PRAYING TO ENLARGE HIM ON BAIL IN S.C.NO.143/2023 OF MALAVALLI TOWN POLICE STATION FOR THE OFFENCES P/U/S 399 AND 402 IPC PENDING ON THE FILE OF I ADDL. DISTRICT AND SESSIONS JUDGE AT MANDYA.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL ORDER

The learned HCGP is directed to take notice for the respondent.

2. The petitioner/ accused No.2 has filed this petition under Section 439 of the Code of Criminal Procedure for grant of bail in SC No.143/2023 pertains to the offence punishable under Sections 399 and 402 of IPC.

3. Heard Sri Madhu E.K, the learned counsel for the petitioner and Sri G.S. Nagharish, the learned HCGP for the respondent.

4. The learned counsel for the petitioner submits that the petitioner/ accused No.2 has obtained regular bail by the IV Addl. District and Sessions Judge, Mandya in Crl. Misc. No.922/2020 dated 04.01.2021. After the investigation, IO has submitted chargesheet against the accused Nos.1 to 5 on 01.03.2021 for the offences punishable under Sections 399 and 402 of IPC.

5. After filing the chargesheet, the case was registered in CC No.11/2021. After receipt of summons, the petitioner appeared before the learned Magistrate. The learned Magistrate has released the petitioner/ accused No.2 on regular bail. This case was committed to the Court of Sessions and case was registered in SC No.143/2023.

6. The certified copy of the order sheet produced by the petitioner reveals that the Session Court has registered the case and issued the summons to the accused Nos.1, 2 and 4 as per the order dated 03.11.2023. But, summons was not served to this present petitioner. On 15.04.2024, the trial Court has passed an order to re-issue summons to

accused Nos.1 and 2 and the case was registered on 30.09.2024. The summons issued to accused No.2 returned with shara that 'he left address'.

7. Finally, the Sessions Court has passed the order on 03.04.2025 for re-issue summons to accused Nos.1 and 2 and case was posted to 16.07.2025. That on 16.05.2025, the concerned police sought time to execute the summons, the same was noted in the order sheet dated 16.07.2025. However, without perusal of the shara, the learned Sessions Judge has issued NBW to accused Nos.1 to 3 and case was posted to 18.08.2025.

8. The NBW was executed against the accused No.2 on 04.09.2026. The accused was remanded to the judicial custody. The application was filed on behalf of the petitioner under Section 483 of Bharathiya Nagarik Suraksha Sanhita, 2023 read with Section 439 of Cr.PC for grant of bail. The same was rejected by the trial Court as per order dated 01.10.2026.

9. In para Nos.10 and 11 of this order, the trial Court observed as under:

> *"10. In this matter the accused No.2/petitioner already obtained bail in Criminal Misc. No.922/2020, but he violated the conditions imposed by the Court. Though he executed bond and surety but not present before the Court after committal. Because of his continuous absence the matter prolonged from 2023 onwards till 2026 without any progress. The conduct of the accused No.2/petitioner clearly shows that he is not intending to cooperate with the Court to complete the trial. His absence shows his conduct. Hence, he not entitle to bail*
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> *11. I have perused the order sheet maintained by committal Court in Crime No.70/2020 and subsequent C.C.No.11/2021. After obtaining bail accused No.2 was not regularly present before the committal Court. The committal Court issued NBW against accused No.2 since 2021 onwards. This shows that the accused not cooperated during investigation as well as during the trial. Hence, he is not entitling to bail. I feel the presence of the accused No.2 in the custody is required for the*

purpose of trial. There is no sufficient ground to enlarge the accused No.2 on bail. Consequently, his petition for regular bail is liable to reject and I answer the point No.1 in the negative."

10. On perusal of this order, it is clear that the learned Sessions Judge has not applied his judicial mind before sending this accused/ petitioner to the judicial custody. When the learned Sessions Judge has issued the summons to the accused, it is the duty of the Court to ascertain whether the summons is served or not. Though the concerned police has sought time to execute the summons, without application of mind, the trial Court has issued the NBW, which is illegal and not sustainable under law. Even after production of Accused, the learned Sessions Judge has not applied his judicial mind and rejected the bail application without assigning the proper reason.

11. The findings and observation of the learned Sessions Judge are contrary to law as well as facts and

circumstances of the case. Hence, I proceed to pass the following:

ORDER

1. The petition is allowed.

2. The Petitioner/ Accused No.2 shall be released on bail, subject to following conditions:

i) The petitioner/ accused No.2 shall execute a personal bond for a sum of Rs.**1,00,000**/- (Rupees **one lakh** only) with one surety for the likesum to the satisfaction of the trial Court.

ii) The petitioner/accused No.2 shall not tamper or prosecute the witnesses in any manner.

iii) The petitioner/accused No.2 shall appear before the trial Court on all the date of hearing.

Registry is directed to communicate this order to the trial Court.

Sd/-
(G BASAVARAJA)
JUDGE

LL
List No.: 1 Sl No.: 19