HC-KAR

NC: 2026:KHC:64876
CRL.P No. 16639 of 2026

CNR: KAHC010745392026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 16639 OF 2026

BETWEEN:

1. MR. SHASHIDHARA
AGED ABOUT 56 YEARS
S/O UGGAPPA POOJARY
R/AT NO.1-107/4, NATI HOUSE
NARIKOMBU, D.K. DISTRICT - 574 231.

...PETITIONER

(BY SRI ASHWIN JOYSTON KUTINHA, ADV.)

AND:

1. STATE OF KARNATAKA
THROUGH BANTWALA TOWN
POLICE STATION, REP. BY STATE
PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU - 560 001.

...RESPONDENT

(BY SRI CHANNAPPA ERAPPA, HCGP)

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Location: HIGH COURT OF KARNATAKA

THIS CRL.P IS FILED U/S 438 CR.PC (FILED U/S 482 BNSS) PRAYING TO RELEASE THE PETITIONERS ON ANTICIPATORY BAIL IN THE EVENT OF THEIR ARREST IN CR.NO.108/2026 OF BANTWALA TOWN P.S. FOR THE OFFENCE P/U/S 316(1),316(2),318(1), 318(2), 318(3), 318(4), 320, 321, 322, 323, 336(2),336(3) R/W 61 OF BNSS 2023 PENDING ON THE FILE OF THE HOBNLE ADDL.CIVIL JUDGE (JR.DN) AND J.M.F.C BANTWALA, D.K.

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

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CNR: KAHC010745392026

ORAL ORDER

1. Accused No.1 in Crime No.108/2026 registered by Bantwala Town Police Station, Dakshina Kannada, for the offences punishable under Sections 316(1), 316(2), 318(1), 318(2), 318(3), 318(4), 320, 321, 322, 323, 336(2), 336(3) and 61 of BNS, 2023, is before this Court in this petition filed under Section 482 of BNSS, 2023, seeking anticipatory bail.

2. Heard the learned counsel for the parties.

3. FIR in Crime No.108/2026 was registered by Bantwala Town Police Station, Dakshina Kannada, for the aforesaid offences against petitioner and others based on the first information dated 31.07.2026 received from Prakshith B. Shetty, authorized representative of M/s. Vijaya Credit Co-operative Society Limited. Apprehending arrest in the said case, petitioner had approached the jurisdictional Sessions Court in Crl.Misc.No.824/2026 which was rejected on 09.10.2026. Therefore, he is before this Court.

4. Material on record would go to show that private complaint was filed before the Court of jurisdictional Magistrate

by M/s. Vijaya Credit Co-operative Society Limited, represented by its authorized signatory Prakshith B. Shetty and the learned Magistrate had referred the said complaint to the jurisdictional police. In turn, Bantwala Town Police Station had registered FIR in Crime No.108/2026 against petitioner and others for the aforesaid offences.

5. A reading of the averments found in the complaint would reveal that petitioner had borrowed a sum of Rs.20 lakhs from the complainant society by mortgaging his property. Accused No.2, who is the wife of the petitioner was the co-applicant for the said loan and accused No.3 was the guarantor. It appears that at the time of availing the loan, petitioner had informed the society that he had lost the original title documents of the property that was mortgaged. After availing loan, petitioner had failed to pay the EMI and the loan was categorized as NPA and proceedings were initiated for recovering the outstanding dues.

6. At that point of time, complainant came to know that petitioner, who had mortgaged the property as security for the

loan, had subsequently sold the very same property in favour of accused No.4 for valid sale consideration. From the aforesaid, it is apparent that the petitioner at the inception itself had an intention to cheat the society and therefore, a *prima facie* case is made out as against the petitioner for the aforesaid offences.

7. Learned counsel for the petitioner has submitted that since the alleged crime is based on documentary evidence, petitioner's custodial interrogation may not be necessary.

8. The Hon'ble Supreme Court in the case of ***State vs. Anil Sharma - (1997) 7 SCC 187***, in paragraph No.6 has observed as follows:-

> *"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."

9. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep vs. Arun Kumar C. K. and Another - (2022) 17 SCC 391***, in paragraph No.12 has observed as follows:-

"12. ... In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused

should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail."

10. In the background of the aforesaid, if allegations found against the petitioner is appreciated, I am of the opinion that his prayer for grant of anticipatory bail cannot be entertained. Accordingly, the petition is ***dismissed***.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

DN/List No.: 1 Sl No.: 72