KABG010047102026------

IN THE COURT OF THE II ADDL. DISTRICT AND SESSIONS JUDGE, BELAGAVI AT:BELAGAVI

PRESENT

SRI. GANGADHARA.K.N., B.A.,LLM.,
II ADDL. DISTRICT AND SESSIONS JUDGE, BELAGAVI

Dated this the 18th day of June, 2026

Crl.Misc.No.840/2026

Haidarali Gulamali Ujjainvala
Age: 67 years,
R/o: Flat No.1503, 15th Floor,
CS No. 8A/100, Ocean View,
Bhulabhai Desai Road, Near BVD
16th Jinabai Rathod Way,
Majgaon, Mumbai – 400 010.

..Petitioner

(By Shri S.A. Udikeri, Advocate)

V/s

1) The State of Karnataka,
Rep. by Public Prosecutor, Belagavi
Through CEN P.S, Belagavi

..Respondent

ORDER

The accused no. 2 in Belagavi City CEN Police station Crime No. 16/2026 registered for the offences punishable under Section 318(4), 319(2), 111(2) of BNS and Section 66(C) and

66(D) of IT Act filed the present petition under Section 483 of BNSS by seeking regular bail.

2. **Brief facts of the prosecution case is as under:**

The petitioner's contention is that on 22.02.2026 one Manasi Suresh Chavan lodged her complaint with the above said police by alleging that the accused no.1 approached her under the pretext of providing loan from government and also to provide loan to do business from home and also provide an employment to her fiancée named Mr. Harish Chandra Avinash Divate. Accordingly, to provide a loan and also employment, the accused no.1 insisted the complainant or fiance to open an account in the Karnataka Bank and also in the State Bank of Maharashtra. After opening account, by purchasing new SIM, it's the accused no. 1 herself collected the account opening kit. It is the accused no. 1 who managed to obtain SIM cards in the name of the complainant and her fiancee. The said phone numbers have been attached to the new accounts and she retained the said SIM cards, ATM, Passbooks. But later she came to know that she got a message that her account has been freezed and despite an enquiry for freezing her account and also not providing loan and job, she fails to give proper answer and thus the complainant expressed an apprehension that misuse of her and her fiancee account number. Thus, sought action.

3. Thereafter, the police, upon registration of case in hand, they allegedly gave a notice to the accused no.1, who gave a disclosure statement that bank details of the complainant and her fiancee have been forwarded to the present applicant, who herein in turn forwarded the same to his son and another based at Gulf countries, who by using the same, have made the cyber crime, have siphoned more than 100 crores from the various customers account, in this regard there complaints.

4. Based on which, repeatedly notices have been issued to the applicant, as his door got kept locked, same has been pasted on the door of his residence at Mehboob Mansion 2nd floor, room no.14, Kesar Baug, Mumbai. later notice was sent to the applicant herein to the address shown at 1503, 15th floor CS No.

8A/100, Ocean view, Bhulabhai Desai Road near BVD 16th Jinabai Rathode Way, Majgaon, Mumbai and he has been apprehended, arrested on 22.03.2026 from his Mumbai house, taken to the Belagavi Police Station and was arrested on 08:45 p.m. on 22.03.2026. The arrest intimation was given to his wife. And arrest notice was allegedly given under Section 47 of BNSS in English, which is unknown to the language, which is unknown to the applicant, who is an illiterate. Further, transported applicant to the Mumbai to Belagavi for almost 590 kilometers without any transit remand and illegally arrested on 22.03.2026 and produced it before the Judicial Magistrate, sought for police custody for three days. Thereafter, the accused no. 1 has been arrested on 27.03.2026. Thus, contended that the police have adopted the procedure which are unknown to the law.

5. The petitioner contended that the arrest was illegal, arbitrary, unconstitutional, which is in violation of Article 14, 21 and 22 of the Constitution of India and which is in violation of the arrest guidelines issued by the Hon'ble Apex Court in ***Mihir***

Rajesh Shah Vs State of Maharashtra and Anr., (2025) SCC Online 2356.

6. The learned PP filed objection opposing the application on the ground that name of the applicant is mentioned in the F.I.R. It is accused No.1 acted as a bridge between the accused Nos.1,3 to 5 and in inactive collusion with other accused managed to obtain the documents of innocent public, got opened their accounts, managed to got the transferred proceeds of the cyber crime, by doing so, he is allegedly committed the looting of more than 100 crores money of innocent citizens of this country, which is a collective and organized offense, which is an heinous in nature. The investigation is in progress. Accused Nos. 3 to 5 are still absconded. They are to be arrested and investigation has to be done. If he is released on bail, he may likely to flee away from the country. In that event, he may not be available for further investigation and followed by trial. Even they are likely to tamper the prosecution evidence, thus prays to dismiss the petition.

7. Heard the arguments of learn counsel for the petitioner and learned PP. .

8. Now the following point will arise for my consideration.

> Does the petitioner who is an accused No.2 in Belagavi City CEN Crime No. 16/ 2026 is entitled for regular bail in the hands of this court?

9. My findings to the above noted points are in the ***Affirmative*** for the following;

<u>REASONS</u>

10. **<u>Point No.1</u>**: The learned counsel for the petitioner in his arguments vehemently contended that arrest of the accused no.2 itself is an illegal, as notice under section 35(3) has not been served personally and without any transit warrant, he has been transported from Mumbai to Belagavi almost 590 kilometers.

11. He contended that at the time of arrest, the allegation against the accused and others were that they committed an offenses punishable under section 66(C) and 66(D) which are

bailable offence, in that event, the IO was bound to release the accused no.2, by taking his residential and identification document.

12. In this regard, he has placed the reliance on the decision of Hon'ble Apex Court in ***Priya Indoria Vs the state of Karnataka, reported in (2024) 4 SCC 749,*** wherein held as follows:

> ***Section 48 of CRPC permits the police to pursue an accused in other jurisdictions. A police officer for the purpose of arresting without a warrant, one whom he is allowed to arrest, may pursue an individual anywhere in India. Prior to effecting the arrest outside a particular jurisdiction, the police is obligated to secure the transit remand, that is the remand of the accused, for taking him from one place to another in their own custody, usually for the purpose of producing him before the magistrate concerned who has jurisdiction to try commit the case. The primary purpose of such remand is to enable the police to shift the person in custody from the place of arrest to the place where the matter can be investigated and tried. However in various cases the police and investigating agencies have failed to exercise necessary restraint while functioning within their legal remit It is for the aforesaid reason that an***

> ***accused apprehending arrest seeks pre-arrest bail. The courts in India have to be vigilant about such applications being filed particularly when a person alleged to have committed an offence can be proceeded with by setting the criminal law in motion in a place other than the place where the offense has actually occurred. In such circumstances, the courts must balance the interests of the accused in the context of the salutary principle of access to justice, which is a facet of Article 21 of the Constitution as well as a directive principle of state policy, especially Article 39 . More importantly, it is a facet of Article 14 of the Constitution which guarantees to every person in the country equality before the law and equal protection of the law.***

13. Another point which is highlighted by the Learned Counsel for the petitioner is that, the police have served the grounds of arrest under section 47 of BNSS, wherein they stated that he is being arrested in connection with their station Crime No.16/2026, registered for the offences punishable under section 66C and 66D of IT Act, which are bailable offences. Which is in English, the language unknown to the accused, as it is the bounden duty of the I.O. to serve the grounds of

arrest in the language known to the accused, otherwise, the arrest itself would vitiates.

14. But, on the above aspect at this stage, this court would like to clarify on the legal issue raised by him. Firstly, whether grounds of arrest has been served in the language known to the accused is concerned. The said notice has been served on the accused in English language, even if at all the learned counsel submits that he do not know English, but the accused signed in English. Secondly, whether he knows English or not, is the subject matter of inquiry. If at all, the grounds of arrest has not been served on the language known to him, he would have raised the said objection before the judicial magistrate, when he has been produced. Thus, the contention of the petitioner, that he has not been served the grounds of arrest in the language cannot be accepted at this stage, as there is no materials to know the educational qualification.

15. And even the arrest of accused No.2 has been informed to his wife, Smt. Jamila Hyder Ali Ujjainivala, who received by

affixing her signature. The annexure ‘C’, arrest information letter has been personally served on the wife of the accused, which is in English.

16. Moreover, if the grounds of arrest served on the accused no.2 is considered, where it has been reported that he is being arrested in connection with the non-cognizable offences, in that event, as per Section 35 of the BNSS, he shall not be arrested without a warrant and order of the Magistrate. However, there is an exception under Section 39 of BNSS ‘ *where though a person has committed a non-cognizable offense, but where he fails to disclose his identity, address, place of residence, in that event also he can be arrested without warrant. But the moment the IO has ascertained his details, he has to be set at liberty by taking bond or bail bond. And if he is not able to ascertain, then he shall be taken to nearest magistrate within 24 hours.’*

17. In fact, notice under section 47 of BNSS has been served on the accused on 22nd March 2025 at 8.45 pm. But he has been produced before the jurisdictional magistrate on 23rd March 2026 at 3.30 pm. It means to say, in the grounds of arrest, it’s

been specifically disclosed that Firstly, despite their attempt to serve the notice under Section 35(3), he avoided the same. So same has been pasted on the door of his house, despite which he did not responded to their call. After arrest also, he allegedly failed give his identity, resident address and address proof. And moreover, in the meantime, the investigation officer found that he is a person who committed a cognizable offense. Thus, offence under section 111(2) of BNS has been incorporated. In that event, immediately after effecting the arrest, the I.O. has got the information that he is also a part of commission of cognizable offence. Thus, Prima facie the arrest of the accused no.2 in any way found it's a illegal.

18. The Next question would be? Does the prosecution has placed any material at this stage to show his involvement in commission of the Section 111 of the BNS. The prosecution stated that he along with other accused have in active collusion have committed the organized crime. And have robbed hundreds of crores by doing cyber crime from the innocent public's

accounts. But in the case in hand, the complaint was for the different reasons, whether any of the customers have lodged complaint by alleging commission of cyber crime and taking away their earnest money is a subject matter of trial. But at this stage, what is to be looked into, the name of the petitioner is not forthcoming in the complaint. The complaint was for the different reasons and its against the accused no.1. Even assuming that this Accused might have received the parcel from the accused No.1 which is containing the account details of innocent public, same was forwarded to the remaining accused who sits outside the country. If that aspect is considered, whether the accused No.2 herein had knowledge on the contents of parcel received and posted to the son and the daughter of the accused No.1 is the subject matter of a trial.

19. But at this stage, this court felt firstly in this case, the IO completed investigation filed the chargesheet before the committal court. In fact, on the part of the accused No.2 is concerned, the police have taken him for three days police custody, after completion of his part of investigation, he has

been produced, sought for judicial remand, same has been ordered and since from the date of arrest, it means to say, from the 23rd March of 2026 he is in judicial custody. The I.O after investigating the case, laid the the charge sheet. Though offenses are cognizable, but which are not punishable with death exclusively. Moreover, the petitioner is an aged man who is 67 years. Moreover, the allegation against the petitioner herein is he forwarded the consignment consisting of accounts details of the public at general to his son and two others who sits out side the country. Except that there are no allegation of receipt of any money belongs to the cyber crime proceeds. Thus, this court felt it is a fit case to exercise the discretion to enlarge him on regular bail.

20. Of course, the IO expressed his apprehension that if he is released on bail, he may travel outside the country only with intent to defeat the case of the prosecution and he may destroy the prosecution materials. But these aspects can be safeguarded, with the condition. In particularly by directing him deposit his passport before the committal court, may restrain

him from fleeing away from the country. Thus, answer the point in affirmative.

21. In the result, I pass the following:

<u>O R D E R</u>

The petition filed by the accused no. 2 under section 483 of BNSS is hereby allowed.

The petitioner/Accused no.2 in Belagavi City CEN crime no. 16/ 2026 registered for the offences punishable under section 66C, 66D of IT Act and section 318(4), 319(2), 111(2) of BNSS, is enlarged regular bail on a condition to execute the bail bond for an amount of Rs. 2 lakh with two like sum sureties on following conditions:.

1) The petitioner shall deposit his passport before the Committal court, while seeking release order on the basis of the bail order of this court.

2) He shall not cause threat or intimidation to the prosecution witnesses.

3) He shall not tamper the prosecution materials.

4) He shall not involve in any other criminal activities.

5) He shall appear before the committal court and also before the trial court on all the dates of hearing, unless his presence is specifically exempted.

(Dictated directly on Adalat AI, corrected by me, then pronounced in the open Court, on this **18th *day of June, 2026)***

(GANGADHARA.K.N.)
II Addl. Dist Judge, Belagavi.

GANGADHARA K N

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