KABI010027272026

IN THE COURT OF THE II.ADDL.DISTRICT & SESSIONS JUDGE, AT BALLARI.

PRESENT:

SRI.GUDI VASUDEV RADHAKANT, B.Com., LL.M,
CONCURRENT CHARGE OF
II.ADDL.DISTRICT & SESSIONS JUDGE, BALLARI

DATED THIS **10TH** DAY OF **JULY 2026**

Crl.M.P.No:689/2026

PETITIONER ACCUSED:	Nagaprakash.N S/o N.Appaiah, Aged: 59 years, R/o Near BUDA Park, Battri Road, Vidya Nagar, Ballari.

(By Sri.H.Hampaiah, Advocate)

//Vs//

RESPONDENT:	The State by Sub-Inspector of Police, Cowl Bazaar Police Station, Ballari.

(By Learned Public Prosecutor)

O R D E R

1. This petition is filed by petitioner/accused **U/Sec.482 of BNSS, 2023** seeking anticipatory bail in the event of his arrest in **Crime No.129/2026** registered by **Cowl Bazaar Police Station,** Ballari for the offences punishable U/Sec. **419, 420, 465, 468, 471 and 120-B of IPC.**

2. The brief facts of the petition are that first information was lodged on 17.06.2026, alleging that informant is having savings accounts in Canara Bank, Cantonment Branch and she is having her PAN Card bearing No.AFFPJ1724E. In the year 2023 she received the notice from Income Tax department directing her to furnish business details from 01.04.2017 to 31.03.2018 to the extent of Rs.1,67,69,400/- as her PAN card is linked to Bank account. After receipt of the notice, she replied stating that she never did any business and submitted her bank statement along with other documents. Again in the year 2023 she received similar notice claiming that her PAN card is tagged to account No.1425285000397 and turn over of Rs.2,91,57,246/-. Again on 05.03.2023, she gave similar reply.

3. Afterwards, she applied the documents under RTI Act and found that her PAN card was tagged to business account of husband of her sister by name M/s Babu Pharmaceuticals. In the year 2009-2010, 2010-2011 and 2011-2012, she stood as guarantor as said firm by putting her signature. Later, she never signed as guarantor. Accused has forged her signature on the letter of renewal and other documents and submitted it to bank with an intention to cheat the informant and to avoid the tax. Accused has misused the PAN card of the informant. Therefore, she lodged first information statement against the accused for the aforementioned offences.

4. Accused has filed the present petition on the grounds that the he is innocent, peace loving citizen and he has not committed any offence as alleged by the informant. Informant has conveniently narrated the false facts, which is a result of concoction and introduction of afterthought version. Informant has suppressed the true and material facts just to gain unfair advantage. Though the alleged offences are non-bailable, not punishable with death or imprisonment for life. He is ready to abide by any conditions may be imposed by the Court. He will not tamper with the witnesses of Prosecution and also will not abscond from the Court. Hence, prayed to grant anticipatory bail in the interest of justice.

5. Learned Public Prosecutor has filed objections along with Police Report interalia denying the entire contents of the petition. It is contended that there are no bonafide grounds to grant anticipatory bail. Accused has cheated the informant by tagging her PAN card to his account, forging her signature and submitting the documents to Income Tax authorities and thereby committed the heinous offences. Still substantial investigation is to be done. If accused is released on anticipatory bail, he may pose threat to the prosecution witnesses, commit similar offence and may not co-operate for investigation. Therefore, prayed to reject the petition.

6. Heard the arguments of learned counsel for the petitioner/accused and learned Public Prosecutor for the State.

7. Following points arise for consideration:

> **1. Whether the petitioner/accused is entitled for anticipatory bail?**
>
> **2. What order ?**

8. My answer to the above points are ;

> **Point No.1 In the Affirmative**
>
> **Point No.2 As per final order, for the following:**

REASONS

9. **POINT NO.1:-** At the outset, it is necessary to cull out the principles governing the grant of anticipatory bail. While considering an application for grant of anticipatory bail in a suitable case, the court must consider the settled factors, which emerge from the precedents of higher echelons of judiciary. These factors can be summarized as follows:-

> 1) The nature of alleged offence, the nature of accusation and the severity of the punishment in the case of conviction.

2) Whether there exists a reasonable apprehension of the accused tampering with the witnesses or being a threat to the complainant or the witnesses.

3) Possibility of securing the presence of accused at the trial or likelihood of the accused fleeing from the justice.

4) Antecedents of circumstances, which are peculiar to the accused.

5) Whether prima-facie the ingredients of the offences can be made out on the basis of allegations as they stand in the FIR or Charge Sheet and the significant interest of the public or the State and other similar considerations.

10. Constitution Bench of Hon'ble Supreme Court of India in a decision reported in **(2020) 5 SCC 1 (Sushila Aggarwal and others** *versus* **State (NCT of Delhi) and others)** has further laid down guidelines to be followed by the courts while granting anticipatory bail to accused. Those guidelines are culled out herebelow:-

> 78. Having regard to the above discussion, it is clarified that the court should keep the following

points as guiding principles, in dealing with applications under Section 438, Cr. PC:

> (a) As held in Sibbia, when a person apprehends arrest and approaches a court for anticipatory bail, his apprehension (of arrest), has to be based on concrete facts (and not vague or general allegations) relatable a specific offence or particular of offences. Applications for anticipatory bail should contain clear and essential facts relating to the offence, and why the applicant reasonably apprehends his or her arrest, as well as his version of the facts. These are important for the court which considering the application, to extent and reasonableness of the threat or apprehension, its gravity or seriousness and the appropriateness of any condition that may have to be imposed. It is not a necessary condition that an application should be moved only after an FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest.
>
> (b) The court, before which an application under Section 438, is filed, depending on the seriousness of the threat (of arrest) as a measure of caution, may issue notice to the public prosecutor and obtain facts, even while granting limited interim anticipatory bail.
>
> (c) Section 438 Cr. PC does not compel or oblige courts to impose conditions limiting relief in terms of time, or upon filing of FIR, or recording of statement of any witness, by the police, during investigation or inquiry, etc. While weighing and considering an application (for grant of anticipatory bail) the court has to consider the nature of the

offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc. The courts would be justified – and ought to impose conditions spelt out in Section 437 (3), Cr.PC [by virtue of Section 438 (2)]. The necessity to impose other restrictive conditions, would have to be weighed on a case by case basis, and depending upon the materials produced by the state or the investigating agency. Such special or other restrictive conditions may be imposed if the case or cases warrant, but should not be imposed in a routine manner, in all cases. Likewise, conditions which limit the grant of anticipatory bail may be granted, if they are required in the facts of any case or cases; however, such limiting conditions may not be invariably imposed.

(d) Courts ought to be generally guided by the considerations such nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while assessing whether to grant anticipatory bail, or refusing it. Whether to grant or not is a matter of discretion; equally whether, and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.

(e) Anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial. Also orders of anticipatory bail should not be "blanket" in the sense that it should not enable the accused to commit further offences and claim relief. It should be confined to the offence or incident, for which apprehension of arrest is sought, in relation to a specific incident. It cannot operate in respect of a future incident that involves commission of an offence.

(f) Orders of anticipatory bail do not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the person who seeks and is granted pre-arrest bail.

(g) The observations in Sibbia regarding "limited custody" or "deemed custody" to facilitate the requirements of the investigative authority, would be sufficient for the purpose of fulfilling the provisions of Section 27, in the event of recovery of an article, or discovery of a fact, which is relatable to a statement made during such event (i.e. deemed custody). In such event, there is no question (or necessity) of asking the accused to separately surrender and seek regular bail. Sibbia (supra) had observed that "if and when the occasion arises, it may be possible for the prosecution to claim the benefit of Section 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by a person released on bail by invoking the principle stated by this Court in State of U.P. v Deoman Upadhyaya."

(h) It is open to the police or the investigating agency to move the court concerned, which granted anticipatory bail, in the first instance, for a direction under Section 439 (2) to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc. The court – in this context is the court which grants anticipatory bail, in the first instance, according to prevailing authorities.

(i) The correctness of an order granting bail, can be considered by the appellate or superior court at the behest of the state or investigating agency, and set aside on the ground that the court granting it did not consider material facts or crucial circumstances. (See Prakash Kadam & Etc. Etc vs Ramprasad Vishwanath Gupta & Anr52; Jai Prakash Singh (supra) State through C.B.I. vs. Amarmani Tripathi53). This does not amount to "cancellation" in terms of Section 439 (2), Cr. PC.

(j) The judgment in Mhetre (and other similar decisions) restrictive conditions cannot be imposed at all, at the time of granting anticipatory bail are hereby overruled. Likewise, the decision in Salauddin and subsequent decisions (including K.L. Verma, Nirmal Jeet Kaur) which state that such restrictive conditions, or terms limiting the grant of anticipatory bail, to a period of time are hereby overruled.

79. In conclusion, it would be useful to remind oneself that the rights which the citizens cherish deeply, are fundamental- it is not the restrictions that

> are fundamental. Joseph Story, the great jurist and US Supreme Court judge, remarked that "personal security and private property rest entirely upon the wisdom, the stability, and the integrity of the courts of justice."

11. Keeping these principles in mind, let me proceed to decide the present petition.

12. Now turning to the factual scenario of the present case as can be discernible from the records of the case, Cowl Bazaar Police have registered the case against accused for the offences punishable U/Sec.**419, 420, 465, 468, 471 and 120-B of IPC**. It is the accusation made by the prosecution that accused had tagged the PAN card of the informant to his account with an intention to cheat her and to avoid tax, forged her signature and submitted the documents to Income Tax authorities and thereby committed the alleged offences.

13. Even though alleged offences are non-bailable in nature, but they are not punishable with death or imprisonment for life. Nevertheless the alleged offences are triable by the court of Judicial Magistrate. Apprehensions of the prosecution can be meted out by imposing reasonable conditions.

14. As per the decision of **Hon'ble Supreme Court of India in Sushila Aggarwal** (referred supra), grant of anticipatory bail does not amount to halting or causing impediment to investigation process. It is not in the nature of an injunction to investigation process.

15. The alleged offences are punishable with imprisonment that may not exceed 7 years. As per decision of Hon'ble Supreme Court of India in **AIR 2014 SC 2756 (Arnesh Kumar v/s State of Bihar),** accused can not be arrested in case of imprisonment which may not exceed 7 years. On this count also, accused is entitle for anticipatory bail.

16. In the present petition, accused has undertaken that he will not tamper with the prosecution witnesses. Considering all these aspects and totality of the circumstances, I am of the opinion that accused is entitled for anticipatory bail subject to reasonable conditions, as keeping him in custody amounts to pre-trial conviction. Hence, I answer the Point No.1 in the Affirmative.

17. **Point No.2 :**- In the result, I proceed to pass the following :

O R D E R

Petition filed on behalf of petitioner/accused U/Sec.438 of Cr.P.C. is hereby allowed.

Petitioner/accused in the event of his arrest in **Crime No.129/2026** registered by **Cowl Bazaar Police Station**, Ballari, for the offences punishable U/Sec. **419, 420, 465, 468, 471 and 120-B of IPC,** shall be released on anticipatory bail on execution of personal bond for **Rs.1,00,000/-** along with **one surety** for like-sum subject to following conditions:

1. Petitioner shall mark his attendance before the concerned Police Station on every Thursday once in fortnight **between 10.00 a.m and 05.00 p.m,** till expiry of 90 days or till filing of the final report, whichever is earlier.

2. He shall not involve in any criminal activities.

3. He shall not directly or indirectly make any inducement, thereat or promise to any witnesses acquainted with the facts of the case so as to dissuade him/her from

disclosing such facts to the court or to any Police Officer.

4. He shall not obstruct or hamper the Police investigation and not to play mischief with the evidence collected or yet to be collected by the Police.

5. He shall regularly remain present during the trial and co-operate with the court to complete the trial for the above said offences.

6. Accused shall at the time of execution of bond furnish his address and mobile number to the Investigating Officer and the concerned authority and shall not change the residence till the final disposal of the case. If in any circumstances, accused changes the residence and mobile number, he shall inform the same to the concerned Police forthwith.

7. Accused shall surrender his passport if any before the Investigating Officer within

a week, if he does not possess, he shall file an affidavit to that effect before the Investigating Officer.

8. He shall not leave India without prior permission of Trial/Committal Court.

If breach of any of the above conditions is committed, the prosecution is at liberty to seek for cancellation of anticipatory bail.

(Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced in the open court on this **10th day of July 2026**)

(GUDI VASUDEV RADHAKANT)
I/C II.Addl.District & Sessions Judge,
Ballari.