

KABK010016072026



**IN THE COURT OF PRINCIPAL DISTRICT AND
SESSIONS JUDGE, AT BAGALKOTE**

PRESENT

SRI. MASTER R.K.G.M.M. MAHASWAMIJI,
M.A., LL.M.,
PRINCIPAL DISTRICT & SESSIONS JUDGE,

Dated this **4th** day of **July**, 2026

CRL.MISC.NO.317/2026

PETITIONER :

1. SRI. **RAVI**
S/O HANAMANT GUDADINNI,
AGED ABOUT **25** YEARS,
OCCUPATION: PRIVATE WORK,
R/O: GIRISAGAR,
HUNAGUND TALUK,
BAGALKOT DISTRICT.

A-3

(Now, in Judicial Custody)

Represented by
Sri. S.C. Hiremath,
Advocate for petitioner.

V/s

RESPONDENT :

State By P.S.I Hunagund
Police Station.

Represented by Sri **R.R.**
Faras, *Public Prosecutor.*

*** O R D E R ***

This Crl.Misc petition is filed by the petitioner/accused No.3 under Sec.**483** of Bharatiya Nagarika Suraksha Sanhita, 2023 seeking relief of **regular bail** in respondent Bilagi P.S Cr.No.**120**/2026, which is registered against the petitioner and 2 others for the offences p/u/secs.**103(1)** and 238 r/w/sec.3(5) of Bharatiya Nyaya Sanhita, 2023.

2. This bail application is moved by the counsel appearing for the petitioner, urging divergent grounds herein.

3. **ON THE OTHER HAND**, the learned public prosecutor appearing on behalf of State, has resisted the said bail petition by filing written objections contending interalia therein.

4. In view of that, following POINTS that emerge for my consideration and determination in this petition:

*1. Whether the bail petition filed by the petitioner/accused No.3 under section **483** of B.N.S.S, 2023, is sustainable and he is entitled for regular bail as prayed ?*

2. What Order?

5. I have heard on both sides and carefully perused the prosecution materials placed on record.

6. My answer to the aforesaid POINTS are as under:

POINT No.1: In the **AFFIRMATIVE**

POINT No.2: As per the final order,
for the following:

REASONS

7. **POINT NO.1:** In support of this bail application, the learned counsel appearing for the petitioner submits that he is innocent and he has not committed the alleged offences and he has not had any bad antecedents and he has been falsely implicated in this case just to harass him.

7.1. It is submitted further that petitioner is permanent resident of **Girisagar** village of Bilagi Taluka and he owns both movable and immovable properties in his name, hence there is no chance to abscond.

7.2. It is argued that the petitioner is nothing to do with the alleged offences and there is no prima facie case against the petitioner.

7.3. It is submitted further that petitioner is ready and willing to give substantial surety to the satisfaction of the court and he undertakes to abide by any conditions that may be imposed by the court. HENCE, bail petition may be allowed.

8. ON THE CONTRARY, the learned public prosecutor appearing for the State has submitted that it is a case of commission of murder and there is prima facie case against the petitioner/accused No.3 and there is no ground made out by the petitioner for grant of bail.

8.1. It is further submitted by learned Public Prosecutor that if petitioner/accused No.3 is enlarged on bail, he may tamper with prosecution witness or abscond or flee away from justice etc., **THEREFORE**, bail petition may be rejected.

9. I have gone through the basic factual matrix of this prosecution case it is alleged by complainant by name Sri. **Sangappa D.** that all the accused persons having enmity against complainant's son Vikas, on account of, he was roaming around with sister of A-2 and A-3 Rakshita.

(b) As such, in between the period of 20.05.2026 at about 10 p.m., and 26.05.2026 at about 5.50 p.m., accused persons committed murder of **Vikas** by strangulating his neck with the help of thread tied to a club and with an intention to destroy the evidence, by putting dead body of Vikas in a gunny bag along with stone, threw it into the Ghataprabha River. Accordingly, complaint was filed and FIR is registered. Accordingly, complaint was filed and FIR is registered.

10. AT THIS JUNCTURE, it is necessary and beneficial to extract the provision of Law u/Sec.483 of B.N.S.S., Act, 2023 and it reads thus:

"Sec.483 :- Special powers of High Court or Court of Session regarding bail.

(1) A High Court or Court of Session may direct-

(a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in subsection (3) of section 480, may impose any condition which it considers necessary for the purposes mentioned in that sub- section;

(b) that any condition imposed by a Magistrate when releasing an person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice.

Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya

Sanhita, 2023, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.

(2) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023.

(3) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody."

11. AT THIS STAGE, it is also necessary to reproduce the main offence of murder u/sec.**101** & offence punishable under section **103(1)** of B.N.S. Act, 2023 for convenient use and it is as hereunder:-

11.1 SEC.101 OF B.N.S: Except in the cases hereinafter excepted, culpable homicide is murder,

*"(a) if the act by which the death is caused is done with the **intention of causing death**; or*

*(b) if the act by which the death is caused is done with the intention of causing such bodily injury as the offender **knows to be likely to cause the death** of the person to whom the*

harm is caused; or

*(c) if the act by which the death is caused is done with the intention of causing bodily injury to any person and the **bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death**; or*

*(d) if the person committing the act by which the death is caused, knows that it is so **imminently dangerous** that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid."*

11.2 "103(1). Punishment for Murder:

(1) Whoever commits murder shall be punished with death or imprisonment for life, and shall also be liable to fine.

(2) When a group of five or more persons acting in concert commits murder on the ground of race, caste or community, sex, place of birth, language, personal belief or any other ground, each member of such group shall be punished with death or with imprisonment for life and shall also be liable to fine."

12. On careful perusal of the facts and prosecution materials placed on record, it is obviously clear that an offence alleged under u/Sec.**103(1)** of BNS Act is non bailable in nature and is triable by this Sessions Court and it is punishable with imprisonment for life or death as case may be.

13. On reading of prosecution materials placed on record, at this stage, it is clear that the overt act attributed against petitioner/A-3 is that he abetted the commission of murder.

14. The learned counsel for the petitioner also submits that the only role played by the petitioner is that he had only instigated A-1 and A-2 to commit offence.

15. The prosecution has not disputed the permanent address furnished by the petitioner in the cause title of the bail petition.

16. It is established law that the accused is to be presumed as innocent until guilt is proved by the prosecution beyond all reasonable doubts in full-fledged trial by discharging its burden of proof; until then, it is not just and proper **to put him further in jail** as a measurement of punishment in the pre-trial stage.

17. Whether the alleged offences are committed by the petitioner or he is guilty is matter of evidence or trial, which is to be proved by the prosecution beyond all reasonable doubts in full dressed trial.

18. It is settled position of law by the catena of decisions of Hon'ble Apex Court and Hon'ble High Courts that the **securing the presence of accused for trial and protection of witnesses** from tampering are main considerations at the stage of granting of bail.

19. In this context, it is profitable to refer a decision in case of **HUSSAINARA KHOOTAN AND OTHERS V/s STATE OF BIHAR** (AIR SC 1979 1360), wherein the Hon'ble Apex Court has taken a considered view that:

"The primary principle of criminal law is that imprisonment may follow judgment of guilt but should not precede it; Pre-trial detention as a propose and policy behind it and issue of bail or jail has to be decided by the court and relevant criteria".

20. In this regard, it is also useful to cite another decision in case of **ATUL RAO V/s. STATE OF KARNATAKA** the (2008(4) Hon'ble High Court of Karnataka has held that:

"The requirements as to bail is to secure the attendance of accused at the trial and bail is not to be

withheld as a measurement of punishment. When no legitimate apprehension is expressed that there is possibility of abscondance of the accused, there was no harm in considering the bail”.

21. It is apt to note that there are no reasonable grounds to believe that the petitioner has been guilty for the offences punishable either with imprisonment for life or death.

22. It is worthy to note that the petitioner/accused No.3 is suffering in Judicial Custody from the date of his arrest/remand i.e. **28.05.2026** till today and prosecution has not made out any grounds to retain him **further** in judicial custody.

23. It is to be noted that, the prosecution case is based on **circumstantial evidence** and role attributed is abetment/instigation and since he is in judicial custody for more than one month, he is not required either for investigation or for interrogation. Moreover, the investigation officer did not file any application before the concerned Magistrate seeking to give the A-3 for interrogation or investigation. Therefore, it is clear that he is not required either for investigation or for interrogation, at this stage.

24. It is relevant to note, it is urged that the petitioner is innocent and he did not commit the alleged offences and the allegation is general & vague one and he is ready & willing to offer

substantial surety to the satisfaction of this court and to abide by any conditions that may be imposed by the court.

25. Having heard rival submissions of both sides, at this stage, I find no valid, good and compelling grounds made out by the prosecution to reject the regular bail to the petitioner.

26. Considering the factual aspects this case, without expressing any opinion with regard to the merits or demerits of this case, I hold that it is just and proper to grant **regular bail** as prayed to the petitioner.

27. However, the apprehension and interest of the prosecution that if the petitioner is enlarged on bail, he may tamper with the prosecution witnesses or flee away from justice could be rightly safeguarded by imposing some suitable conditions, which in turn, secure the presence of the petitioner for trial and serve dual purpose in the interest of justice.

28. Having regard to the given facts and circumstances of this case and the nature of the offences alleged, I am of the considered opinion and inclined to hold that the petitioner is deserved for **regular bail** as prayed. It is fit case to exercise discretion under Sec.483 of B.N.S.S. Act. Accordingly, I answer on aforesaid **POINT No.1** in

the **AFFIRMATIVE**.

29. **POINT No.2:** In view of my finding on Point No.1 and for foregoing reasons and discussions, I proceed to pass the following :

:- ORDER :-

IN THE RESULT, this petition filed by the Petitioner/accused No.3 u/Sec.**483** B.N.S.S., Act, 2023 seeking **regular bail**, is hereby **ALLOWED** conditionally.

1. It is hereby directed to release the petitioner/accused No.3 in respondent Bilagi P.S., Crime No.**120**/2026, on furnishing of his personal bond of Rs.1,00,000/- along with TWO sureties for like sum to the satisfaction of concerned court with the following terms and conditions:-

i) He shall appear before the court regularly.

ii) He shall co-operate and appear before investigation officer as and when required for investigation or interrogation purpose.

iii) He shall not hold out threat or tamper with prosecution witnesses or repeat similar or any type of offences or

destroy the prosecution evidence or flee away from justice while they are on bail.

iv) He shall mark his attendance before SHO of respondent P.S. on 1st and 3rd Saturday of every month in between 10 a.m., and 5 p.m.

v) He shall not leave the jurisdiction of this Sessions Court without prior permission.

vi) He shall not leave the jurisdiction of the police station and this court without prior permission.

vii) He shall furnish current address, active mobile number to the jurisdictional police and intimate any changes within 48 hours.

In case, if the petitioner violates any of the above mentioned conditions, the prosecution is at liberty to move an application for cancellation of bail.

(Dictated to the Stenographer Grade-III, directly on computer, typed by her, corrected, signed and then pronounced by me in the open court on this the 4th day of July, 2026.)

**(MASTER R.K.G.M.M. MAHASWAMIJI)
PRL. DISTRICT AND SESSIONS JUDGE,
BAGALKOTE.**