

KABR010006262026



**IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS  
JUDGE, BENGALURU RURAL DISTRICT, BENGALURU.**

**Dated this the 17<sup>th</sup> day of March, 2026.**

**PRESENT:**

Smt. B.S. Rekha, B.A.(LAW), LL.M.,  
Principal District & Sessions Judge,  
Bengaluru Rural District,  
Bengaluru.

**Crl.Misc.No.301/2026**

- Petitioners:
1. Mahendra Kumar Saud @ A.1  
Jayandra Saud,  
S/o Laxman Saud,  
Aged about 24 years,  
R/at: Venkatesh Labour Shed,  
Opp. to Indira Canteen,  
Prakash Layout, Varthur,  
Bengaluru.
  2. Pankaj Kathayat, A.2  
S/o Gorkha,  
Aged about 28 years,  
R/at: Venkatesh Labour Shed,  
Opp. to Indira Canteen,  
Prakash Layout, Varthur,  
Bengaluru.

*Represented by  
Smt.Girish R.-Advocate.*

V/s.

Respondent : State of Karnataka by  
Varthur Police Station.

*Represented by  
learned Public Prosecutor.*

**ORDER**

The learned counsel for petitioners has filed this petition U/S.483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter called as BNSS, 2023 for convenience) praying for release of petitioners on regular bail in Crime No.4/2026 of Varthur Police Station, Bengaluru Rural District for the offences punishable under Ss.109 R/W. S.3(5) of Bharatiya Nyaya Sanhita, 2023 (hereinafter called as BNS, 2023 for convenience) on the file of learned II Addl. CJM, Bengaluru Rural District, Bengaluru.

2.1. The facts of complaint are narrated in detail in the bail petition. It is further stated in the bail petition that the petitioners are innocents and law abiding citizens and have not committed any offence as alleged.

The petitioners have been falsely implicated in the case. Except the general and omnibus allegations, no specific overt act or distinct role has been attributed to either of the petitioners. There are no eyewitnesses who have directly seen the petitioners assaulting the injured. As per the medical records, the injuries sustained by the injured are simple in nature and not life threatening. The materials indicate a spontaneous altercation in the heat of the moment. A sudden fight cannot be treated as a deliberate or pre-planned assault, thereby diluting the prosecution case. The voluntary statements allegedly made before the police are hit by Ss.25 & 26 of the Evidence Act and are inadmissible in law. The entire case is based on circumstantial evidence and the chain of circumstances is incomplete.

2.2. It is further contended that the petitioners have to be protected by the judiciary as held by the Hon'ble Supreme Court in the case of Siddharam

Satlingappa Mhetre vs. State of Maharashtra reported in (2011) 1 SCC 694 which stated that the personal liberty is very precious fundamental right and it should be curtailed only when it becomes imperative according to the facts and circumstances of the case. It is well established principle of law that bail is a right and jail is an exception and the former has to be resorted only as a last resort, which has enumerated and reiterated by the Hon'ble Apex Court in catena of cases and mainly in the case of G. Narasimhalu Vs. Public Prosecutor reported in AIR 1978 SC 429.

2.3. It is further contended that the petitioners are the permanent residents of address mentioned in the petition cause-title. The petitioners are having deep roots in the society. The petitioners are ready to offer surety to the satisfaction of this court. Hence, prayed for allowing the petition.

3. The Learned Public Prosecutor has filed objections to the petition, wherein she has narrated the entire facts of the case in short and contended that there is prima-facie case against the petitioners. The petitioners belong to Nepal. The investigation of the case is still in progress. The offence committed by the petitioners is heinous in nature. If petitioners are granted with regular bail, there is every chance of abscondance, tampering with the witnesses, hampering the investigation and committing similar offences. Hence, prayed for rejection of bail petition. IO report is attested, along with objections.

4. Heard arguments.

5. From the above facts, the points that arise for consideration are:-

*1. Whether the petitioners are entitled for regular bail?*

*2. What order?*

6. Findings of this Court on the above points are as under:-

Point No.1: ***In Affirmative;***

Point No.2: As per final order for the following:-

### **REASONS**

7. **Point No.1**:- On 02.01.2026, at about 7.40 p.m., the complainant Mohammed Sher Ali, S/o Late Mohammed Taj has lodged the complaint which is registered in Crime No.4/2026 alleging the offence punishable under Ss.109 R/W. S.3(5) of BNS, 2023.

8.1. It is stated in the complaint that the younger brother of the complainant-Mohammed Azharuddin is the 4<sup>th</sup> son to his parents. They have kept mutton shop at Varthur and are eking their livelihood from the same. On 31.12.2025 at about 4.00 p.m., the brother of the complainant went out from the mutton shop and the complainant does not know as to where did he go. On 01.01.2026 at about 00:10 hours, the brother of the

complainant-Mohammed Azharuddin had fallen unconscious and had sustained bleeding injuries on his head and hence, some auto persons had taken him to the hospital near Gandhi Circle.

8.2. It is further alleged that at about 00:41 hours, the friend of the complainant visited his house and informed about the incident and told that the doctors told to take his brother to other hospital for treatment. The complainant immediately went near Gandhi Circle and took his brother to Vikram Aura Hospital and got admitted him for treatment. When the complainant checked the CCTV footage, he found that some 3 Nepali persons assaulting his brother with clubs and he came to know that the name of one of the person is Mahindra. Hence prayed to take action against accused persons.

9. The aforesaid facts alleged in the complaint *prima-facie* reveal the offence punishable U/S.109(1)

R/W. S.3(5) of BNS, 2023, which is non-bailable in nature and triable by the court of Sessions.

10. Based on this complaint, petitioners who are accused No.1 & 2 were arrested and produced before learned II Addl. Chief Judicial Magistrate, Bengaluru Rural District, Bengaluru on 07.01.2026 and 04.01.2026 respectively and then, they were remanded to judicial custody and now, petitioners are in judicial custody.

11. It is stated in the objection statement of learned PP that spot panchanama has been drawn and the materials used for commission of offence are seized.

12. It is alleged in the complaint that the petitioners have assaulted the brother of the complainant with clubs and he had sustained bleeding injuries on his head. But, the prosecution has not produced any document or medical certificate to know about the nature of injuries sustained by the brother of

the complainant and that he has taken treatment in the hospital.

13. Anyway, investigation is in progress. The petitioners are already arrested and after investigation they are remanded to judicial custody. Thus, their custodial interrogation is not required. Furthermore, the petitioners are ready to furnish surety and would abide by the terms and conditions that may be imposed by this Court for their release. Hence, the apprehension of learned Public Prosecutor that tampering and threatening prosecution witnesses, commission of similar offences and abscondence of petitioners could be safeguarded by imposing suitable conditions. Hence, this Court holds that petitioners are entitled for bail with some suitable conditions. Accordingly, the point No.1 is answered in the ***Affirmative***.

14 . **Point No.2:-** In view of findings on point No.1, this Court proceeds to pass the following:-

**ORDER**

The bail petition filed under Section 483 of BNSS, 2023 is hereby **allowed**.

The petitioners are released on bail in Varthur Police Station, Bengaluru Rural District, in Crime No.4/2026 for the offence punishable U/S.109 R/W. S.3(5) of BNS, 2023 on they executing self-bond for a sum of ₹.1,00,000/- (Rupees One Lakh only) each with a surety for like sum to the satisfaction of learned Magistrate subject to following conditions:

1. Petitioners shall not threaten or tamper with the prosecution witnesses directly or indirectly.
2. They shall not commit similar offences.
3. They shall appear before Investigating Officer, as and when called for investigation during the reasonable hours of the day.
4. In the event charge-sheet is filed against the petitioners, the petitioners shall appear before the Court regularly without fail till completion of trial without exception.

5. The sureties are directed to produce title deeds of the property before the jurisdictional Magistrate.

If any of these conditions are violated, then, the bail bond will be automatically cancelled.

(Dictated to the Stenographer, transcribed and typed by her, corrected, print out taken, signed and pronounced by me in the open Court on this the 17<sup>th</sup> day of March, 2026.)

**(B.S. REKHA)**

Prl. District & Sessions Judge,  
Bengaluru Rural District,  
Bengaluru.