

KACB010019772024



**IN THE COURT OF THE I ADDITIONAL DISTRICT &
SESSIONS JUDGE AT CHIKKABALLAPURA,**

Dated this the 21st day of April, 2026.

PRESENT :

Sri. Kantharaju S.V. B.A. LL.B.

I Additional District & Sessions Judge,
Chikkaballapura

S.C.No.100/2024

Complainant:

The State
Rep. by Gowribidanur Rural Police
Station,

**(Rep. by Learned Public Prosecutor,
Chikkaballapura)**

Versus

Accused No.:

2. Vijaya Kumar
Son of Sanjeevappa,
Aged about 42 years,
Residing at: Konaganahalli Village,
Hossur Hobli,
Gowribidanur Taluk,
Chikkaballapura District
7. Naveen Kumar
Son of Ramanjinappa,
Aged about 24 years,
Residing at: Naduvalahallai Village,
Hossur Hobli,

Gowribidanur Taluk,
Chikkaballapura District

**(Rep. by Sri. M. Papi Reddy,
Advocate)**

:ORDERS:

This bail application is filed under Section 483 of Bharathiya Nagarika Suraksha Sanhitha, 2023 on behalf of the accused No.2 and 7 for grant of regular bail in this case for the alleged offences punishable under Sections 189(2), 189(4), 191(2), 191(3) 115(2), 118(1), 352, 351(2), 351(3), 109(1), 103(2) read with Section 190 of Bharathiya Nyaya Sanhita, 2023, pending on the file of this Court, in the interest of justice.

2. The learned Public Prosecutor representing the State has seriously opposed the petition and has requested to reject it for the reasons stated in her written objection and I.O. Report.

3. Heard arguments from both sides.

4. The point for consideration is;

"Whether the accused No.2 and 7 have made out a ground for the grant of the bail as sought?"

5. The above point is answered in the **Negative**, for the following;

:REASONS:

6. I have perused the records. The charge sheet allegations in brief are that, CW.2's father by name late Chikkahanumanthappa had two wives namely Gangama and Lakshmmamma and they had six children Hanumanthrayappa, Ramakrishnappa Manjunath, Nanjundappa, Lakshmiddevamma and Ramanjinappa and except Nanjundappa is the son of 2nd wife Lakshmmamma.

6(a). The deceased Nanjundappa resident of Naduvalahalli village, Gauribidanur taluk, along with CW.2, CW.3 and CW.7. The accused No.1 and 5 have inherited 2 acres of land in survey no.-43 of Kambalahalli village, who came to Konagahalli from Kambalahalli about 45 years ago and has not changed the Khata after the death of his grandfather Narasimhaiah. The name of Narasimhaiah appears in the title deed.

6(b) But later on, the land in Survey No. 43 in Kambalahalli was given to Gollara Narasimhaiah Son of Narasimhaiah of Kambalahalli village for sale, and Gollara Narasimhaiah's wife and children are in possession. In the year 2011, when CW.2, CW.3, CW.7, CW.17 and accused No.1 and 5 went to take possession of the land, Late Gangamma, wife of Gollara Narasimhaiah, and her children filed a civil case in the Civil Court, Gouribidanur,

against the said land and the name of her husband in the title deed. CW.2 and her father Chikka Hanunthappa and CW.3, CW.7 and accused No.1 and 5 and the deceased Nanjundappa in O.S. No. 68/2021, same is pending for adjudication.

6(c). The deceased Nanjundappa was handling the court proceedings and was taking the expenses of conducting the case from his elder brother and sisters. But since the deceased Nanjundappa's elder brother and sisters were not cooperating in conducting the case in court, someone told the land broker to find someone to buy the land, and after a compromise was made between Narayanappa and his side, who had filed the case in court, and his side, and the survey no.43, they changed the Khata of the 2-00 acres of land, registered it, etc., and sold the said land, saying that everyone should share the money from it, and that they should also pay all the money to sell the land. When the accused asked them to do so, they said that since the said land was near the ACC Cement factory, it would fetch a good price one day, and that Nanjundappa and CW.2 were putting the land up for sale to cheat them, and they were harboring hatred towards the families of the deceased Nanjundappa and CW.2 who opposed them.

6(d). On 18/08/2024, upon hearing that accused No.1 to 7 had come to the house of accused No.5, Nanjundappa asked everyone to come and sign the sale of the land through his elder sister CW.3 at 7:30 am. CW.1 also agreed to this, but the accused persons refused. On the same day, on 18/08/2024, at around 11:00 am, accused Nos.1 to 7 by forming unlawful assembly by holding deadly weapons in their hands and they went to CW.2 house and quarreling with CW.2, CW.4 and CW.5 by saying that "Why your son Sudhakar supporting Nanjundappa? Teach him some sense." When CW.1, who came to know about the matter, came to the spot and approached the deceased Nanjundappa, all the accused persons said, "they want to finish him off today. Accused-5 assaulted CW.1 with his hands and kicked him with his feet, causing him pain. **Accused No.2 assaulted him with a stick. CW.1 was hit on the head and suffered a blood wound. Accused No.2 assaulted Nanjundappa on the head with the same stick and bit his right jaw with the same stick, causing injuries.** When Nanjundappa fell, **accused No.7 also assaulted Nanjundappa on the head with his elbow and caused a bruise.** Accused No.1, who tried to stop CW.2, accused No.1 assaulted the CW.4 on the left hip with the stick and caused a bruise. Accused No.6 Chethan assaulted CW.4 on the waist and arm with the stick and caused pain. Accused No.3 and accused No.4

assaulted the CW.5 with their hands and caused pain. Nanjundappa, who was seriously injured, died at Bangalore Victoria hospital on 19/08/2024 : 00-45 (12.45 A.M.). Based on the complaint, the concerned Gowribidanur Rural Police have registered a case against the accused No.1 to 7 for the aforesaid offences.

7. The counsel for the accused No.2 and 7 contended that the accused No.2 and 7 were arrested on 23.08.2024 and have been in judicial custody for more than 16 months. Earlier they have filed bail petition before this Court, same was rejected by this Court on 18.01.2025. Thereafter, **the accused No.2 and 7 have preferred Crl.R.P. No.4858/2025 before the Hon'ble High Court of Karnataka. The Hon'ble High Court disposed the petition as not pressed on 25.04.2025 granting liberty to file a fresh bail application after examination of CW.1 to CW.6, the alleged eyewitnesses.** In compliance with the said liberty, the CW.1 to CW.6 have been examined by this Court. Further, a false implication due to civil dispute that the entire case arises out of a long-standing land dispute, which has been admitted by prosecution witnesses in cross-examination. The criminal case is clearly a result of civil rivalry, giving rise to false and exaggerated allegations. All alleged eye-witnesses examined - no apprehension of tampering CW-1 to CW-6, who are the alleged eye-witnesses, have already been examined. Therefore, there is no possibility of the accused No.2 and 7

influencing, threatening or tampering with prosecution witnesses. Serious procedural lapses and doubtful recovery of weapons (MO-1 to MO-4). CW-1 to 6 has given inconsistent versions regarding the recovery of the alleged weapons. Even they admitted that when the police showed the wooden clubs on 19.08.2024, they were not sealed or packed. Material contradiction between oral evidence and charge-sheet regarding seizure of weapons. All the prosecution witnesses, including CW-1 to CW-6, have consistently stated in their evidence that the alleged weapons were seized by the police on the very same day of the incident, i.e., 18.08.2024. However, a perusal of the charge-sheet records reveals a completely different version, wherein the police have stated that Two weapons were seized on 18.08.2024, **One weapon was seized on 20.08.2024 from Accused No.7, and Another weapon was seized on 25.08.2024 from Accused No.2.** This contradiction alone makes the recovery wholly unreliable. Contradictory testimony regarding consciousness and ability to observe CW-1 initially stated that he lost consciousness after being assaulted. However, he later claimed that he regained consciousness within a few minutes, observed his uncle vomiting blood, witnessed the acts of other accused and was conscious enough to give a statement at the hospital. These contradictory versions cast serious doubt on the reliability of his observations and his ability to attribute specific overt acts. Further, the other prosecution witnesses have also admitted that they do not

remember which accused was holding which weapon. Some of the witnesses failed to identify the alleged weapons in Court and have given inconsistent versions regarding the incident, seizure and mahazar proceedings. These inconsistencies cumulatively render the prosecution version unreliable even at the prima facie stage. Omission regarding weapons in the earliest version CW-1 (Sudhakar), in his cross-examination dated 20.08.2025, has categorically admitted that in his initial statement given at the Government Hospital, Gowribidanur, he did not mention the use of four wooden clubs improvement. (MO-1 to MO-4). This omission in the earliest version strikes at the root of the prosecution case and shows that the weapon story is a later. No specific overt act attributed to Accused No.2 and 7. Even after full cross-examination of PW-1 to PW-6, no witness has consistently or clearly attributed a specific overt act to Accused No.2 and Accused No.7. The allegations are general and omnibus in nature, which is insufficient to deny bail. Interested and related witnesses - absence of independent corroboration. All alleged eye-witnesses are closely related to the complainant's family and are interested witnesses. CW-1 to 6 all are admitted that neighbours were residing adjacent to the house, yet no independent witness has been examined. The prosecution case rests solely on interested testimony, which requires cautious scrutiny. Suppression of Crucial Statement of Deceased. CW-2, during his cross-examination, has categorically stated that the deceased Nanjundappa was

alive, conscious and had given a statement to the respondent police, and that the deceased had even affixed his left thumb impression to the said statement even in the post-mortem report confirms the ink mark on left thumb of the deceased. It clearly corroborating that a statement was taken from the deceased. That statement is missing from the charge sheet. This suppression alone demolishes the prosecution case at the prima facie stage. Manipulation of Time in the Complaint/FIR CW-1, during his cross-examination, has categorically stated that his statement (which has been treated as the complaint) was recorded by the police at about 1:00 PM on 18.08.2024. However, the complaint on record mentions the time as 3:00 PM. A bare perusal of the complaint itself clearly shows that the digit "1" has been altered to "3", indicating overwriting and manipulation this manipulation of the FIR timing itself creates grave doubt, sufficient for bail. Admissions regarding residence of accused doubt about presence. CW-1 to 6 all are admitted that Accused No.1, 2 and Accused No.7 have been residing in Bangalore for the last 20-30 years along with their families. This admission creates serious doubt regarding the presence of all accused at the spot and weakens the prosecution theory of unlawful assembly and common intention. Inconsistencies regarding number of incidents CW-1, during his cross-examination, stated that there were three separate fights on the same day. However, the complaint and the FIR referred only to one single incident. This improved version introduced

for the first time during cross-examination clearly amounts to exaggeration and materially affects the credibility of the prosecution case. Further, CW-4 has stated that the quarrel took place only between CW-1 and the deceased Nanjundappa, which is inconsistent with the prosecution version of a group assault involving all the accused. These contradictory versions regarding the very occurrence of the incident create serious doubt about the prosecution narrative and necessarily enure to the benefit of the accused at the bail stage. Absence of intention or premeditation. Even as per prosecution witnesses, the incident arose suddenly during a land-related quarrel. There is no material to show planning, premeditation or intention to cause death, which is essential for sustaining an offence under Section 103 of BNS. Parity with co-accused all other accused are already on bail. There is no distinguishing circumstance against Accused No.2 and 7. On the ground of parity alone, they are entitled to bail. Prolonged judicial custody amounts to pre-trial punishment. **The accused No.2 and 7 have been in judicial custody since 23.08.2024.** Continued incarceration, despite examination of all material witnesses, amounts to pre-trial punishment and is violative of Article 21 of the Constitution of India. The accused No.2 and 7 are ready to abide and obey any conditions imposed by this court and they will furnish any surety as directed by this court. The accused No.2 and 7 undertakes to appear before the court regularly and they will

co-operate for the trial. Hence, they prayed to allow the bail application.

8. Having disagreed with the contention of accused No.,2 and 7, the learned Public prosecutor has filed objections and in the said objections it has been contended that the bail application filed by the accused No.2 and 7 are contrary to law and liable to be dismissed. Further, the learned Public Prosecutor has reiterated the charge sheet averments. Further, the investigating officer has submitted the charge sheet including investigating officer in all 57 charge sheet witnesses. The prosecution has examined CW.1 to CW.6 material witnesses and on perusal of the charge sheet averments and other material witnesses, the accused No.2 and 7 have committed the heinous offences. hence, they are not entitled for bail. If the accused No.2 and 7 are granted regular bail, they may abscond from the jurisdiction of this court and in such an event, it will hamper the trial. The accused persons may threaten the witnesses and destroy the evidence of the prosecution or involved in the similar offences. The accused have committed heinous offences. There is sufficient material on record to presume that the accused have committed the offences alleged against them. Hence, it is requested to reject the application.

9. Having borne in mind the rival contentions it is seen that, the prosecution has made serious allegations against this accused No.2 and 7. It is relevant to note here that, the

alleged offences are very heinous in nature, and punishable with death or imprisonment for life. These accused along with other accused have committed the murder of deceased Nanjundappa. Further the apprehension of the prosecution that, if the accused No.2 and 7 are granted bail as sought for, they may abscond and may not be available for trial, causing delay in speedy trial of the case cannot be ruled out. Apart that, this Court already examined PW.1 to PW.6, who are the eyewitnesses to the alleged incident, they have consistently support the case of the prosecution. Though there is appears some minor contradictions in their cross examination by the learned counsel for the accused No.2 and 7 and this Court already discussed in detail in the earlier order of the bail application filed by them vide its orders dated 19.02.2025, Keeping in mind the ratio held in the ruling of **Hon'ble Apex Court in Misc. Application No.1849/2021 in Spl.L.P. (Crl.No.5191/2021)** in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and another** the alleged murder committed by the accused persons are very heinous in nature. In the said circumstances, I am inclined to agree with the contentions of the learned Public Prosecutor that, the continuation of the custody of the accused No.2 and 7 are matter of absolute necessity so as to ensure the speedy trial and also it is not the stage to discuss about the merit of the case. In the light of the above

observations, I am inclined to hold that Accused No.2 and 7 are not entitled for the regular bail at this stage. Accordingly, I pass the following :

ORDER

The application under Section 483 of BNSS, 2023 filed by the accused No.2 and 7, is hereby dismissed.

(Dictated to the Stenographer directly on computer, typed by him, corrected and then pronounced by me in the Open court, on this the **21st day of April, 2026.**)

(Kantharaju S.V.)
I Additional District & Sessions Judge
Chikkaballapura,