

KACM010000312019



**IN THE COURT OF II ADDITIONAL DISTRICT AND
SESSIONS JUDGE AT CHIKKAMAGALURU**

Dated this the 29th day of April, 2025

:PRESENT:

Sri. Manjunatha, B.A., LL.B,
II Addl. District and Sessions Judge
Chikkamagaluru

S.C No.02/2019

Complainant

State by Kadur Police,
Kadur.

(Represented by Public Prosecutor)

-VS-

Accused

:

6. Shivakumar @ Shiva
S/o. Munivenkatappa,
Aged about 23 years,
R/at B.Kodihyalli village,
Kadur Taluk.

(Repted/by Sri H.M.S advocate)

ORDER

The learned counsel for accused No.6 has filed this application under section 483 of BNSS for enlarging him on bail in the above case registered against him and others for the offences punishable under sections 120-B and 399 of IPC.

2. It is contended by the accused No.6 that he is innocent and he has not committed any offences as alleged, but a false case has been registered against him. There is no any iota of evidence regarding the involvement of accused No.6 in the alleged offences. He further undertakes to abide by the terms and conditions that may be imposed by the court for granting bail to him. On these grounds, the accused No.6 sought for allowing the petition.

3. The learned Public Prosecutor has filed objection in detail by reiterating the contents of the complaint and contended that after completing investigation, the complainant police have submitted charge sheet against the accused persons and the materials placed on record prima-facie discloses the involvement of the accused persons in the crime in question and if at this stage, the accused No.6 is released on bail, he may further flee from justice by remaining absent from the proceedings and hamper the trial. It is also contended that the accused No.6 may also involve himself in the commission of similar offences and he may threaten and intimidate the prosecution witnesses. Accordingly, prayed for rejection of bail petition.

4. Heard the arguments and perused the records.

5. The points that arise for the consideration of this court are:-

POINTS

1. Whether the accused No.6 has made out any ground to enlarge him on bail in the above case?
 2. What order?
6. My findings on the above points are as follows:
Point No.1: In the affirmative,
Point No.2: As per the final order for the following:-

REASONS

7. **Point No.1:** It is the case of prosecution that on 29.08.2018 night at about 0.50 hours on N.H 206 road, Near Kuppalu Morarji school the accused persons found in possession of logs, steel knives, chilly powder, stones and rope and making preparation to commit dacoity in the vehicles plying on the highway during night hours.
8. After investigation, charge sheet has been submitted against the accused Nos.1 to 6 for the offences punishable under sections 120-B and 399 of IPC. The learned JMFC after taking cognizance registered the case in C.C No.1400/2019. During investigation, this accused obtained bail in Crl.Misc.659/2018, appeared before the committal court and enlarged on bail as per order sheet dated 29.09.2018.

9. After committal this accused appeared before the court and enlarged on bail. During trial this accused remained absent before this court and hence this court issued N.B.W against accused No.6 on 18.01.2024. The accused No.6 produced before this court under NBW on 20.04.2025, remanded to judicial custody and since then he is in judicial custody.

10. It is seen from the records that the complainant police have already submitted charge sheet by completing investigation, this court is of the opinion that the veracity of the allegations made against the accused No.6 and his involvement in the crime in question is required to be established in the full fledged trial. CW.1 has been partly examined as PW.1 before this court.

11. It is settled that gravity alone cannot be a decisive factor to deny bail rather the court is required to balance other competing factors while exercising discretion and further it has been categorically held by the Hon'ble Apex court that the object of granting bail is to secure the appearance of accused person at the trial and the object of bail is neither punitive nor preventative. Thus the object of bail is to secure the attendance of accused person in the trial and while exercising the discretion, the court is required to consider the probability of the attendance of accused before the

court to face the trial. In this case, nothing has been placed on record to show that the presence of accused No.6 could not be secured for trial without detaining him in the custody.

12. It is seen from the records that admittedly after completing investigation, charge sheet has been submitted by the complainant police. He had obtained bail in Crl.Misc.659/2018 dated 11.09.2018, appeared before the committal court and enlarged on bail. At this stage, the prosecution has not made out any compelling grounds to detain the accused No.6 further in judicial custody. Moreover, the accused No.6 is ready to furnish surety to the satisfaction of the court and to abide by the terms and conditions that may be imposed by this court. The apprehension and interest of the prosecution that if the accused No.6 is enlarged on bail he may influence the prosecution witnesses or flee from justice can be safeguarded and taken care of by imposing suitable conditions and thus it serves purpose.

13. Thus by taking into consideration the facts and circumstances of the case and the materials available on record without expressing anything on merits or demerits of the case, this court is of the opinion that the accused No.6 has made out a ground to

exercise discretion to enlarge him on bail and accordingly, I answer point No.1 in affirmative.

14. **Point No.2:** In view of the above findings on point No.1, I proceed to pass the following:

ORDER

The application filed under section 483 of BNSS by the accused No.6 is hereby allowed.

The accused No.6 is ordered to be enlarged on bail in the above case on executing personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with one surety for the like sum with following conditions:

- 1) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade him from disclosing such facts to the court or to any police officer.
- 2) He shall attend the court regularly on all the dates of hearing.
- 3) He shall not involve himself in any criminal activity.
- 4) He shall produce any authenticated proof regarding his permanent abode.
- 5) In case of violation of any of the conditions imposed above, the bail granted in favour of the accused No.6 shall stands canceled.

(Dictated to Stenographer Grade-I directly on computer, script corrected, then signed by me and pronounced in the open court on this the 29th day of April, 2025)

Sd/-
(MANJUNATHA)
II Addl. District & Sessions Judge
Chikkamagaluru