



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

Dated this the 12th day of March, 2026

:PRESENT:

**Smt. Bhanumathi B.C., B.A.L., LL.B.,
I Addl. District & Sessions Judge,
Chikkamagaluru**

Crl.Misc.No.106/2026

Petitioner: Sujan K.,
S/o Kunzhibu,
Aged about 39 years,
R/at Kodagarahalli village,
Shuntikoppa Hobli,
Somwarpet Taluk,
Kodagu District.

(Represented by Sri.PES, Adv)

V/s

Respondents: 1. State by Banakal Police
(Represented by Public
Prosecutor,
Chikkamagaluru)

2. Jeevan E.D.,
S/o Dinesh,
Aged about 22 years,
R/at Echalabeedu,
Hesaralu Hobli,
Sakleshpura Taluk,
Hassan.

(In person)



ORDER

The petitioner, who is arraigned as accused in CC No.195/2026 (Crime No.97/2025) on the file of Addl. Civil Judge and JMFC, Mudigere has filed this petition under section 483 of Bharatiya Nagarika Suraksha Sanhita 2023 (hereinafter referred as 'BNSS' for the sake of brevity) for enlarging him on regular bail in said case registered against him for the offence punishable under section 105 of Bharatiya Nyaya Sanhita 2023 (hereinafter referred as 'BNS' for the sake of brevity).

2. By reproducing and denying the allegations made against him, it is contended by the petitioner that he is innocent of the alleged offences, but he has been falsely implicated in the crime in question. That he is in judicial custody from the date of his arrest. Initially FIR was registered against him and others for the offence punishable under section 109 r/w section 3(5) of BNS and after the death of Dinesh, section 103 of BNS has been invoked and later charge sheet was laid for the offence punishable under section 105 of BNS. That the petitioner himself took the deceased to the hospital. The petitioner had no intention to cause the death of Dinesh, but while using a toy/sports air gun, he negligently shot the deceased, who sustained injury on the right portion of his neck and as such the offence punishable under section 105 of BNS is not applicable to the facts of the case. As the charge sheet has been submitted, the presence of this petitioner in custody is no more required.

3. It is further stated by the petitioner that he was not produced before the magistrate within 24 hours which violates Article 22(2) of Indian Constitution. The



petitioner has got aged parents and he has to look after them. The petitioner is ready to abide by the terms and conditions that may be imposed by this court and also to furnish surety for releasing him on bail to the satisfaction of the court. Inter-alia on these grounds, the petitioner sought for allowing the petition.

4. The learned Public Prosecutor has resisted above petition by filing statement of objections with report of the investigating officer. He also submitted copies of charge sheet and its enclosures. By reproducing the allegations made in the charge sheet, it is contended by the prosecution that after completing investigation, the respondent police have submitted charge sheet against the petitioner and the material placed on record prima-facie discloses the involvement of the petitioner in the crime in question. The trial is yet to be commenced and if at this stage, this petitioner is released on bail, he may involve himself in the commission of similar offences and he may threaten and intimidate the prosecution witnesses as he is economically and politically powerful. He may also flee from justice and thereby he would hamper the trial and further having regard to the nature and gravity of offence alleged against this petitioner, the Public Prosecutor has sought for rejecting the application.

5. The presence of informant, who is arraigned as respondent No.2 has been secured to hear regarding this petition and submitted that he has no objection to enlarge the petitioner on bail.

6. Heard arguments and perused the record.

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



POINTS

1. Whether the petitioner, who is arraigned as accused in CC No.195/2026 (Crime No.97/2025 of Banakal Police) on the file of Addl. Civil Judge and JMFC, Mudigere has made out any ground to enlarge him on regular bail in said case?
2. What order?

8. The answers to the above points are as follows:

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

REASONS

(Note:- It is made clear that the observations made by this court in the course of this order is only in respect of considering the bail application and the same has no bearing on the merits of the case.)

9. **Point No.1:-** In the case of **Prashanthkumar Sarkar -VS- Ashish Chaterjee and another** reported in 2010(14)SCC 496, the Hon'ble Apex court has indicated that the following factors are required to be kept in mind while considering the bail application in respect of a heinous offence:-

- i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- ii) nature and gravity of the accusation;
- iii) severity of the punishment in the event of conviction;



- iv) danger of the accused absconding or fleeing, if released on bail;
- v) character, behavior, means, position and standing of the accused;
- vi) likelihood of the offence being repeated;
- vii) reasonable apprehension of the witnesses being influenced, and
- viii) danger, of course, of justice being thwarted by grant of bail.

10. By keeping in mind the above factors, I have carefully perused the entire material placed on record. This court is conscious of the fact that the court cannot and is not supposed to sift the evidence made available by the prosecution at the time of deciding the bail application. However, only for the purpose of deciding whether the accused is entitled for bail or not, I proceed to discuss the facts alleged by the prosecution and whatever I say while disposing this bail application cannot be construed as an expression of opinion on the merits of the main case.

11. It is seen from the record that on 23.11.2025, the respondent police registered the case in their Crime No.97/2025 against the petitioner and others for the offences punishable under section 109 r/w section 3(5) of BNS on the basis of the complaint lodged by respondent No.2 herein who is the son of deceased Dinesh. After death of said Dinesh, section 103(1) of BNS and sections 3, 25 and 30 of Arms Act were invoked. Upon completing investigation, the respondent police charge sheet was laid against the petitioner alone for the offence punishable under section 105 of BNS to the jurisdictional magistrate and the same is registered in CC No.195/2026.



12. The sum and substance of the allegations leveled by the prosecution is that the accused, CW.17-Sathish, CW.18-Vinto, CW.19-Vignesh were partners in contract business of harvesting coffee and pepper in the estate of others. That on 16.11.2025, the accused, CW.2-Prakash, CW.12-Yogesh and deceased Dinesh had been to the estate of CW.20-N.J.Arena situated at Sabbenahalli, Mudigere Taluk to harvest coffee and therein the accused and CW.2 resided in the 1st house of coolie line and CW.12 and Dinesh resided in the 2nd house. That on 25.01.2025, the accused had purchased a Toy/Sports Air Gun NX 200 from the shop of CW.28-Suresh Malya situated at Basavanahalli main road, Chikkamagaluru and as it was not working properly, he went to said shop on 21.11.2025 and got it repaired.

13. It is the further case of the prosecution that on 22.11.2025, during lunch hours, when Dinesh was in the coolie line house, the accused brought the repaired gun from the jeep and to check its condition, he asked Dinesh to keep an empty plastic water bottle on a paint box placed at a distance from the 2nd house and the accused fired from a distance of 28 feet at the entrance of corridor by aiming said plastic water bottle. At about 12.42 p.m, when Dinesh went to keep the plastic bottle which had fallen on the floor on the box, the accused by negligence fired at the neck portion of Dinesh and caused bleeding injury to him and due to fear he called CW.2, who was washing hand behind the house, then the accused, CW.2, CW.13-Sudhakar, CW.14-Gangaiah, CW.15-Vasantha and CW.16-Vishwanatha shifted the injured to Banakal hospital. Thereafter, the injured was shifted and given treatment at Janapriya hospital, K.S.Hegde hospital and KMC hospital, Mangaluru, but he did not



respond to the treatment and succumbed to the injuries on 24.11.2025 at about 12.25 p.m and thereby the accused is responsible for the death of deceased.

14. It is seen from the record that in the course of investigation, the petitioner was arrested and produced before the court on 24.11.2025 and since then he is in judicial custody.

15. As noted above, this court is conscious that at the stage of considering the bail application, the merits or demerits of the allegations cannot be dwelt upon. However only for the purpose of deciding this application, I proceed to discuss the facts of the case.

16. As per the allegations leveled by the prosecution, the petitioner had bought a Toy/Sports Air gun from the shop of CW.28 and as it was not working, he got it repaired at his shop at Chikkamagaluru on 21.11.2025 and took it to the estate on 22.11.2025 and in order to check its working condition, he started firing with the same by aiming empty plastic bottle kept over a paint box and at that point of time, he is alleged to have fired at Dinesh at his neck portion and as a result he succumbed on 24.11.2025. It is contended by the learned counsel for the petitioner that the petitioner had no intention to cause the death of Dinesh as there was no previous ill-will. In order to substantiate his contention, the learned counsel for the petitioner has relied upon the recitals of the mahazar said to have been conducted at the spot and submitted that as per said recitals, 04 used pellets were found at the spot, a metal paint box containing 08 fired holes and a two liters of empty plastic water bottle having two holes were found at the spot and the same would indicate



that the petitioner had no intention to take the life of deceased. Further as per the material made available on record, the petitioner himself took the injured Dinesh to the hospital and it would indicate that he had no intention to cause his death. It is also contended that even according to prosecution, the firing on Dinesh took place accidentally while testing the working condition of air gun by the petitioner and at the most the offence punishable under Part-II of section 105 or section 106 of BNS may get attracted and the same is not punishable with imprisonment for life or death.

17. In the case on hand, it is not the case of the prosecution that the alleged act was done by the petitioner with intention to cause the death of Dinesh so as to attract Part-I of section 105 of BNS. In the given set of facts and circumstances, whether the act was done with the knowledge that it is likely to cause death of Dinesh is yet to be ascertained in the full-fledged trial.

18. It is seen from the record that during investigation, this petitioner was arrested and produced before the court on 24.11.2025 and since then he is in judicial custody. Admittedly after completing investigation, the respondent police have submitted charge sheet to the court and the offence alleged against the petitioner is not exclusively punishable with death or imprisonment for life. Further while hearing the informant regarding the bail application filed by the petitioner, he has stated that he has no objection to release the petitioner on bail.



19. 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 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.

20. The petitioner is shown to be a resident at the address situated within the jurisdiction of this court and there is nothing on record to show that it is difficult to secure his presence for the trial without continuing him in custody. Hence, I feel that there would be no impediment in securing the presence of the accused for the trial. At this stage, the prosecution has not made out any compelling ground to continue the petitioner further in judicial custody.

21. Further, the petitioner 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 petitioner is enlarged on bail, he may tamper with the prosecution witnesses or flee from justice can be set at rest by imposing suitable conditions and thus it serves dual purpose in the interest of justice.

22. Thus by taking into consideration the facts and circumstances of the case and the material made available on record, without expressing anything on



the merits or demerits of the case, this court is of the opinion that this is a fit case to exercise discretion to enlarge the petitioner on bail and accordingly, I answer point No.1 in **affirmative**.

23. Point No.2:- In the light of above discussion, I proceed to pass the following:

ORDER

The petition filed under section 483 of BNSS by accused in C.C.No.195/2026 (Crime No.97/2025) on the file of Addl. Civil Judge and JMFC, Mudigere is hereby allowed.

The petitioner is ordered to be enlarged on bail in the aforesaid case registered against him for the offence punishable under section 105 of BNS on the following conditions:-

- 1) The petitioner shall execute personal bond for a sum of Rs.2,00,000/- (Rupees two lakh) with two sureties for the like sum.
- 2) The petitioner 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.
- 3) The petitioner shall appear before the court on all the dates of hearing except on unavoidable circumstances with the permission of the court.
- 4) The petitioner shall produce any authenticated proof regarding his permanent abode.



In case of violation of any of the conditions imposed above, the prosecution is at liberty to seek cancellation of bail.

(Dictated to the Stenographer Grade-III directly on computer, script corrected and then signed by me on this the 12th day of March 2026).

[Bhanumathi B.C]
I Addl. District and Sessions Judge
Chikkamagaluru