

KACM010011232025



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

Dated this the 01st day of July, 2025

:PRESENT:

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

S.C No.65/2025

Complainant

1. State by Balehonnur Police

(Represented by Public Prosecutor,
Chikkamagaluru)

-VS-

Accused

:

Shankara S/o Rajappa,
Aged about 29 years,
R/at: Kenchapura,
Lingadahalli, Tarikere Taluk,
Chikkamagaluru.

(Repted/by Sri A.K.R., advocate)

ORDER

The learned counsel for accused has filed this application
under section 483 of BNS for enlarging him on bail in the above case

registered against him for the offences punishable under sections 85 and 108 of BNS, 2023.

2. It is contended by the accused that he is innocent and he has not committed any offences as alleged, but a false and frivolous case has been registered against him. It is submitted that from the date of marriage between the accused and the deceased, there were no dispute arose between them and they were in cordial terms. Further, no case has been registered against the accused and no complaint has been lodged by the deceased against the accused. The accused is having aged parents and they are suffering from various ailments and apart from that, the accused is having children who are also facing difficulties. In case, the accused remains in the judicial custody for further more period, then his parents and his children, will be put to untold hardship. 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 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 and the materials placed on record

prima-facie discloses the involvement of the accused in the crime in question and if at this stage, the accused 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 may also involve himself in the commission of similar offence 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 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:** On considering the papers on record, it is evident to note that the respondent police have registered the case against the accused and another in crime No.30/2025 for the offences punishable under sections 85 and 108 r/w 3(5) of BNS, 2023. The fact that the

complainant/informant is the brother and petitioner is the husband of deceased-Smt. Ansuha, which is not in dispute.

8. It is alleged in the complaint that the sister of CW.1/complainant Smt.Anusha and the accused got love marriage around six years prior to the incident, due to the said wedlock, they had two children. The accused after finishing coolie work, used to return to his house by consuming alcohol and used to assault and abuse his wife Anusha, then CW-2 used to come and pacify the quarrel. On 31.03.2025, on account of Ugadi festival, the accused consumed alcohol in the morning, came to house at about 6 p.m., abused his wife Anusha in filthy language and told her that she was not cooking food nicely and also told her to die, slapped her, CW-2 again came and pacified the quarrel. There afterwards, on 02.04.2025, Ansuha along with her husband accused came to Heruru Estate, Koppa Taluk within the jurisdiction of Balehonnur Police Station for coolie work, there also accused abused her by consuming alcohol. On 03.04.2025, Anusha called CW-2 over phone and told that she was undergoing mental harassment from her husband as he used to assault and abuse her by consuming alcohol everyday, for that CW-2 consoled her, then again her husband came by consuming

alcohol and abused her, assaulter her and without bearing all the ill-treatment meted out to her by the accused, she committed suicide by hanging herself with the saree to the rafter of the house. With these allegations, the informant sought for action against the accused herein by holding him responsible for the death of his sister.

9. The contention of petitioner is that he is innocent of the offences alleged and there is absolutely no case made out against him for the alleged offences. But, as pointed out by the learned Prosecutor, the respondent police have registered FIR in Crime No.30/2025 against the accused for the above said offence and after investigation submitted charge sheet against the accused. At this stage, if the bail is granted in favour of the petitioner, then he may abscond and also tamper the prosecution witnesses and hamper the trial and this Court cannot come to the conclusion that the accused is innocent of the offences alleged against him. Hence, at this stage the contention of accused that he is innocent of the offences alleged against him does not stand for consideration. It is not desirable on the part of this Court at this stage to come to the conclusion that the accused is innocent of the offences alleged against him.

10. On the basis of arguments of learned counsel for accused and the learned Public Prosecutor, verified the relevant case papers. On perusal of the entire records placed before the Court, it discloses that the accused has caused the death of deceased-Smt.Anusha by subjecting her to physical and mental cruelty by consuming alcohol. It is also equally important to note that offence alleged against the accused is punishable under sections 85 and 108 of BNS. The offence under section 108 of BNS is though not punishable with death, but with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

11. It is well settled principle of law that the granting of bail is discretionary power of the Court and every case should be considered on the basis of facts of each case. In **(2012) 1 Supreme Court cases 40 (Sanjay Chandra Vs. CBI)** the Hon'ble Court has held that:

"every person detained or arrested is entitled to speedy trial-Trial may take considerable time and accused will have to remain in jail longer than the period of detention – Therefore, it is not in the interest of justice that the accused should be in jail for an indefinite period – Court will have to consider while granting bail about the seriousness of charges and severity of punishment – Merely the offence

alleged against the accused is serious one itself should not deter the Court from enlarging on bail when there is no serious contention from the prosecution that if the accused is released on bail, he would interfere with the trail or tamper with the witness.”

And in (2011) 1 SCC 784: (2011) 1 SCC (Cri) 409 in *State of Kerala V. Raneef* has stated (SCC P.789 para 15):

"In deciding bail applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial. Often this takes several years and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail. In the present case, the respondent has already spent 66 days in custody(as stated in para two of his counter-affidavit), and we see no reason why he should be denied bail.

12. By applying the above ratio laid down by the Hon'ble Supreme Court of India, the present fact of the case has to be analyzed and considered. On perusal of the averments made in the petition and charge sheet material produced on record. The brother of the

deceased filed the complaint alleging that the accused is the route cause for the death of his wife Anusha. . However, it is a matter of trial.

13. In the course of investigation, the accused was arrested and produced before the committal court on 05.04.2025 and since then he is in judicial custody. After completing investigation, the police submitted charge sheet against the accused for the offences punishable under sections 85 and 108 BNS.

14. Having regard to these aspects and further having to the fact 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 and his involvement in the crime in question is required to be established in the full fledged trial.

15. 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 person before the court to face the trial. In this case, nothing has been placed on record to show that the presence of accused could not be secured for trial without detaining him in the custody.

16. It is seen from the records that admittedly after completing investigation, charge sheet has been submitted by the complainant police. At this stage, the prosecution has not made out any compelling grounds to detain the accused further in judicial custody. Moreover, the accused 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 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.

17. 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 has made out a ground to exercise discretion to enlarge him on bail and accordingly, I answer point No.1 in affirmative.

18. **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 is hereby allowed and the accused is ordered to be enlarged on bail in the above case on the following conditions.

- 1) The accused shall execute personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with one surety for the like sum.
- 2) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.
- 3) He shall attend the court regularly on all the dates of hearing.
- 4) He shall not involve himself in any criminal activity.
- 5) He shall produce any authenticated proof regarding his permanent abode.

- 6) In case of violation of any of the conditions imposed above, the bail granted in favour of the accused shall stands canceled.

(Typed to my dictation by the Stenographer Grade-III directly on Computer, corrected by me and then pronounced in the open Court on this the **1st day of July, 2025**)

Sd/-

(Manjunatha)

II Addl. District & Sessions Judge
Chikkamagaluru.