

KACM010019312025



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

Dated this the 11th day of December, 2025

:PRESENT:

SRI. PRAKASH.V., B.A.,L., LL.B.
C/c II Addl., District and Sessions Judge,
Chikkamagaluru.

S.C.No.113/2025

COMPLAINANT : State by N.R.Pura Police
Chikkamagaluru District.

(Rep. by Public Prosecutor)

-V/s-

ACCUSED:

1. Smt.Kamala W/o Sudarshan,
Aged about 31 years,
R/at: Kanagala Beedi,
Santhe market backside,
N.R.Pura Taluk, Chikkamagaluru.

2. Shivaraj S., S/o Somashekarappa,
Aged about 33 years,
R/at: Gurupura 1st cross,
Nanjundeshwara road,
Vidyanagara,
Shivamogga.

(Accused No.1 and 2 are Rep. by P.E.S.,
Advocate)

3. Harish B.R. S/o B.R.Rajappa,
Aged about 39 years,
R/at: Malavagoppa Village,
In front of Channabsaveshwar,
Shivamogga.

(Rep. By Shri.B.C.V.S., Advocate)

4. Channakeshava B.S.
S/o Hanumanthkumar,
Aged about 32 years,
R/at: Bevooru Village,
Kotturu Taluk, Vijayanagara,
Karnataka.

COMMON ORDERS ON BAIL APPLICATION
FILED BY THE ACCUSED NO.1 TO 4

The Accused No.1 and 2 have filed common bail application and accused No.3 and 4 have filed their respective bail application under section 483 of BNSS., 2023 for enlarging them on bail in the above case registered against them for the offences punishable under sections 49, 61(2)(a), 103(1), 238(a), 238(b) r-w 3(5) of BNS., 2023.

2. In the bail application of accused No.1 and 2 it is stated that, they are innocent and they have not

committed any offences as alleged, but a false case has been registered against them. There is no previous criminal history against them. Accused No.1 is a woman and as per the charge sheet and material placed by the IO, there is no connective material is found against her and other accused. The investigation is already over and the IO has submitted charge sheet, hence the accused persons are not required for any custodial interrogation. The accused persons are in judicial custody from long duration and if they are continued in judicial custody, the real criminals and culprits will reflect the mind of the accused persons and very difficult to take proper defence while in the trial. The accused persons further undertakes to abide by the terms and conditions that may be imposed by the court for granting bail to them. Hence, sought for bail.

3. In the bail application of accused No.3, it is stated that, he has not committed any offences alleged against him, but a false case has been registered

against him. The accused No.3 is the permanent resident of above said address and he has got movable and immovable properties within the jurisdiction of this Court. The accused No.3 hails from respectable family and he is ready to offer surety and will abide by any of the conditions that may be imposed by this Court, if he is granted bail. Hence, sought for bail.

4. In the bail application of accused No.4 it is stated that, he has not committed any offences alleged against him, but a false case has been registered against him. The accused No.4 has been arrested and remanded to judicial custody on 26.05.2025 on the basis of alleged voluntary statement of himself. The accused No.4 is the earning member of the family and entire family is depending on him and he has aged mother and if he is not released on bail, his family members will be put to hardship and mental agony. There is no nexus between this accused and the alleged offences or the article recovered by the

respondent police. Further it is also contended that denial of bail would amount to violation of the Article 21 of the Constitution of India. Further it is also submitted that the accused No.4 is the permanent resident of above said address and he has got movable and immovable properties within the jurisdiction of this Court. The accused No.4 hails from respectable family and he is ready to offer surety and will abide by any of the conditions that may be imposed by this Court, if he is granted bail. Hence, sought for bail.

5. Per contra, the learned Public Prosecutor has filed separate objections for the bail applications filed by the accused No.1 to 4 and reiterated 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, these accused persons

are released on bail, they may further flee from justice by remaining absent from the proceedings and hamper the trial, may involve in similar offences and they may threaten and intimidate the prosecution witnesses. Thus, sought for rejection of petition.

6. The learned counsel for the accused No.1 and 2 has relied upon the following judgments in support of their contentions:

1. SLP (Criminal) No.1136/2023 between Directorate of Enforcement Vs Subhas Sharma
2. Bail Application No.8581 of 2025 between Biswajit Mandal V/s Inspector, Narcotic Control Bureau, Cochin Zonal Unit
3. BLAPL No.5527 and 6993 of 2025 between Jati @ Susanta Rout, Jilapi @ Basanta Sahu V/s State of Odisha
4. Writ Petition No.21912 of 2024 between Smt.T.Ramadevi W/o T.Srinivas Goud V/s The State of Telangana

5. Crl.Petition No.5932 of 2025 between Lokanath M.D. V/s State of Karnataka

6. SC 205 /2024 between Hassan City Police V/s Lokanath M.D.

7. Crl.MC.No.9946 of 2025 between Muhammed Nashif U. and others V/s State of Kerala and another

The learned counsel for the accused No.1 and 2 has also produced the copies of google route maps.

7. Heard the arguments and perused the records and the following points arise for my consideration;

P O I N T S

1. Whether the accused No.1 to 4 have made out a ground to enlarge them on bail in the above case?
2. What Order?

8. My answers to the above points are ;

Point No.1: In the Negative.

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

REASONS

9. **POINT No.1 :** The brief facts of the prosecution case as per the complaint is that, the accused No.1 while working at Rajasthan Handloom cloth shop at N.R.Pura Town, kept illicit relationship with one Kannaiah Lal, who is the owner of the said cloth shop and when her husband Sudharshan came to know about the same, he started quarreling with her and also got her removed from the work, being enraged by the same, the accused No.1 decided to commit murder of her husband and in that regard, she contacted accused No.2 with whom she had acquaintance even prior to her marriage, instigated accused No.2 to help her in murdering her husband and offered to give Rs.3,00,000/-, thereafter, the accused No.2 told the said matter to accused No.3 and about 8-10 months prior to the incident, accused No.2 had introduced accused No.3 to accused No.1 at N.R.Pura, later accused No.3 demanded money from accused No.1 through accused No.2, six

months prior to the incident, the accused No.1 had called accused No.2 and 3 to N.R.Pura Santhe Maidan, there accused No.1 had given 2 gold Thali weighing 4.5 gms, informed them to utilize the amount after selling the said gold and she agreed to give some more gold after finishing the work and thereby accused No.1 had instigated and given supari to accused No.2 and 3 to kill her husband, thereafter accused No.3 had sold the said gold thali to CW.25 Madhukar for Rs.34,000/- and shared the money with accused No.2, later accused No.3 introduced himself to the husband of accused No.1 through accused No.1 by coming to N.R.Pura, thereafter, started consuming alcohol with the husband of accused No.1, used to meet Sudarshan whenever he used to go to Shivamogga and developed acquaintance with the husband of accused No.1 and won his faith, when the matter stood so, accused No.1 repeatedly made phone calls to accused No.2 and accused No.3 and pressured

them to put an end to the life of her husband, similarly on 22.05.2025, accused No.1 again called accused No.2 over phone and instigated him to kill her husband, on the said day, accused No.2 and 3 hatched plan to kill Sudharshan and accordingly took accused No.4 to help them in killing Sudharshan, on 23.05.2025, the accused No.2 to 4 came to N.R.Pura in the evening and talked about killing Sudharshan.

10. It is further case of the prosecution that, in furtherance of their common intention to kill Sudharshan, accused No.2 to 4 on 23.05.2025 at about 5 p.m., at the private bus stand at Shimoga, hatched criminal conspiracy to kill Sudharshan, there accused No.2 and 4 bought 10 Quetiapine tablets from CW.22 Chandresh of Seetharama Medicals, mixed the said tablets with half litter water and transferred the same to small Limca juice bottle, kept the same in the bag and came to Madburi Village in the bus, at Madburi Village, accused No.2 called his friend Muruli and from him took car

bearing registration No.KA-03-MH-5810 and went to N.R.Pura Santhe maidan, accused No.3 took Sudharshan in their car on the guise of making party, bought alcohol from C.W.18-Bharath Shetty at Thirumala Wine shop, according to their plan accused No.4 took the bottle filled with tablets and water from his bag and mixed the same with alcohol at Kargunda bus stop and made Sudharshan to drink the same, after that, Sudharshan went asleep, at about 8.30 to 9.00 p.m., at Kargunda bus stop, Shettikoppa Village, N.R.Pura Taluk, accused No.2 and 4 held the hands of Sudharshan, accused No.3 by putting hand gloves pressed the neck of Sudharshan and suffocated him to death, accused No.4 kicked on his chest by wearing chappal and all the accused persons after killing Sudharshan fled away to Shivamoga, while proceeding, accused No.3 in order to cause disappearance of evidence, thrown hand gloves used for commission of Offence to Tunga river at Muduba bridge. Accordingly, the

accused persons have committed the above said offences and hence, case has been filed against accused persons.

11. After investigation, charge sheet has been submitted against the accused Nos.1 to 4 for the offences punishable under sections 49, 61(2)(a), 103(1), 238(a), 238(b) r-w 3(5) of BNS., 2023.
12. At the very outset, Smt.Bhavana, the learned Public Prosecutor appearing on behalf of the State by filing separate objections has argued that the accused Persons are involved in serious offence and prima facie case is made out against them.
13. Per contra Shri.P.E.S, the learned counsel for the accused No.1 and 2 argued that the accused persons are innocent of the alleged offences and as the investigation is already completed, charge sheet has been filed, there is no need of these accused persons for further investigation. In order to substantiate their case, has produced various judgments of

Hon'ble Apex Court and also produced the copies of google route maps.

14. Further, Shri.B.C.V.S., the learned counsel for accused No.3 argued that investigation is already over in this case and accused No.3 is not required for further investigation. Moreover, accused No.3 has not committed any offences and he has been falsely implicated in the case. The learned counsel for the accused No.4 Shri.M.R.H., has argued that he has been falsely implicated in the case and he has nothing to do in the case and he has been arrested on the basis of his voluntary statement.
15. With the rival contentions urged by the both sides, it is just and necessary to go through the materials available on record. Before going into the discussion on the other aspect of the matter, it is just and proper to go through the principles to be borne in mind while considering an application for bail. It is well settled

that matters to be considered in an application for bail are:

- (ii) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (iii) nature and gravity of the charge;
- (iv) severity of the punishment in the event of conviction;
- (v) danger of the accused absconding or fleeing, if released on bail;
- (vi) character, behaviour, means, position and standing of the accused;
- (vii) likelihood of the offence being repeated;
- (viii) reasonable apprehension of the witnesses being tampered with; and,
- (ix) Danger, of course, of justice being thwarted by grant of bail.

16. By keeping in mind the above principles, the instant application filed by the accused persons are to be considered. On perusal of the charge sheet and its contents, it is clearly discloses that, these accused persons said to have hatched criminal conspiracy to

kill the husband of accused No.1 Sudharshan, so as to clear the hurdles in respect of illicit relationship of accused No.1 with one Kannaiah Lal, who is the owner of the cloth shop. Accordingly, accused No.1 called accused No.2 to help her in killing her husband, thereafter accused No.2 by taking the help of accused No.2 to 4 took Sudharshan in their car, made him to drink 10 Quetiapine tablets mixed with alcohol and when Sudharshan went asleep, accused No.2 and 4 held the hands of Sudharshan, accused No.3 by putting hand gloves pressed the neck of Sudharshan and suffocated him to death, accused No.4 kicked on his chest by wearing chappal, accused No.3 in order to cause disappearance of evidence thrown hand gloves used for commission of Offence to Tunga river at Muduba bridge. There is a prima facie material before this Court to believe that the accused persons are involved in the commission of offence.

17. The learned counsel for the accused No. 2 vehemently argued that the accused No.2 was produced before

the learned Magistrate beyond 24 hours and hence, the accused No.2 is entitled to be enlarged on bail as the arrest of accused No.2 is rendered illegal as a result of violation of Article 22 (2) of Constitution of India. In support of his arguments, the learned counsel for accused No.2 has drawn the attention of this court towards the order dated 26.05.2025 passed by the learned Magistrate when the accused No.2 to 4 have been produced before the Magistrate for the first time contending that the accused No.2 said to have arrested in the bus stop of Kachinakatte, Shivamoga on 25.05.2025 at 3.30 p.m. and he was produced before the PSI, N.R.Pura Police Station, on the same day at 4.45 p.m., and thereafter he was arrested by the IO at 5 p.m. Further he argued that the period of 24 hours starts from the time when the accused was detained and not starts from the time of arrest as recorded by the police.

18. With the above contention raised by the learned counsel for the accused No.2, it is just and necessary

to go through the materials available on record. On careful perusal of the charge sheet and its contents, it is an admitted fact that the accused No.2 was taken into custody at 3.30 pm., on 25.05.2025 at Kachinakatte bus stop of Shivamogga and subsequently, he was produced before the IO at 4.45 p.m., the IO has arrested the accused No.2 at 5.00 p.m. on the same day and subsequently he was produced before the learned Magistrate on the next day i.e., on 26.05.2025 at 5.25 p.m. The Hon'ble Supreme Court in the case of **Directorate of Enforcement Vs Subhas Sharma**, the Hon'ble High Court of Kerala in the case of **Biswajit Mandal V/s Inspector, Narcotic Control Bureau, Cochin Zonal Unit**, the Hon'ble High Court of Orissa in the case of **Jati @ Susanta Rout, Jilapi @ Basanta Sahu V/s State of Odisha**, the Hon'ble High Court of Telangana in the case **Smt.T.Ramadevi W/o T.Srinivas Goud V/s The State of Telangana**, specifically held that the period of 24 hours to

produce an accused before the Magistrate commences not when the actual time of arrest is recorded by the Police, but it runs from the time when the accused was effectively detained or his liberty was curtailed.

19. As I have already stated above, in the case on hand, the liberty of accused No.2 was curtailed from 3.30 p.m. when he was detained by the N.R.Pura Police on 25.05.2025 and police have produced the accused No.2 before the learned Magistrate at 5.25 p.m. on 26.05.2025. Whether the accused No.2 was produced before the Magistrate beyond the period of 24 hours and thereby the police have violated Article 22(2) of Constitution of India or not is to be discussed.
20. The learned counsel for accused No.2 has drawn the attention of this court towards the Google route map and argued that the distance between Kachinakatte bus stop to N.R.Pura Police station is 42 kms and one can reach the said distance in 56 minutes and the

distance from N.R.Pura Police Station to Magistrate Court, N.R.Pura is 500 meter and one can reach the said distance in 2 minutes. I have gone through the Google map produced on record, wherein it discloses that the distance between Kachinkatte bus stop to N.R.Pura Police Station is 42 kms and by traveling in car, the said distance can be reached in 56 minutes. As I have already stated above, in the case on hand, the accused No.2 was taken into custody at 3.30 p.m., at Kachinakatte bus stop and he was produced before the Investigating Officer at 4.40 p.m., on the same day and the police have took 1 hour 15 minutes to reach the Police Station from Kachinakatte bus stop and 20 minutes delay was occurred as per the distance mentioned in the Google map. According to me, mere looking in to the google map it is very difficult for this court to come to a conclusion that, there is a delay of 20 minutes in reaching the police station. The police officials have made a prompt attempt to produce the accused No.2 before the

police station well within the time normally one required for travel by car.

21. It is important to note that, as per Section 58 of BNSS., 2023, the time for journey from one place to another is to be excluded while counting period of 24 hours. As I have already stated above, the accused No.2 was arrested on 5.00 p.m., on 25.05.2025 and he was produced before the learned Magistrate at 5.25 p.m on the next date i.e. on 26.05.2025. The order sheet of the Committal Court clearly goes to show that the police have produced the accused No.2 along with accused No.3 and 4 before the open Court at 5.25 p.m on 26.05.2025. Normally, the police officials will bring the accused to the Court along with the remand application and after producing the remand application before the concerned Magistrate, the Magistrate will order for put up the remand application along with case records. After the said order, the concerned pending clerk will put up the case file before the Magistrate and thereafter, the accused will

be produced before the open court. The contents of remand application 26.05.2025 clearly goes to show that after arrest of the accused No.2, the PSI of N.R.Pura Police has conducted the investigation, prepared panchanama between 10.35 to 11.15 am., on 26.05.2025 and after medical examination, the PSI was instructed to produce the accused No.2 before the Magistrate, as the I.O/ Circle Inspector was in Bandobasth duty at Mangalore. In the case on hand, the PSI has produced the accused No.2 before the Court well within the period of 24 hours and there is a delay of 25 minutes while producing the accused No.2 before the Magistrate and there is absolutely no materials before this Court to show that the delay of 25 minutes was occurred due to intentional act of police. Hence, no fault could be find with the police officials in producing the accused No.2 before the Magistrate and it cannot be said that the accused No.2 was produced beyond the period of 24 hours.

22. It is important to note that, the accused No.2 in his bail application has not raised the contention with regard to violation of Article 22(2) of Constitution of India. Further said contention was also not raised at the earliest point of time when he was brought before the learned Magistrate. The order sheet of Committal court further goes to show that, when the accused No.2 to 4 were produced before the learned Magistrate, they were questioned about the date, time and place of their arrest, for which this accused No.2 along with accused No.3 and 4 have replied that, **“They have been arrested by the police yesterday in the evening around 5.30 to 6.00 p.m.”** On this ground also the accused No.2 cannot be allowed to say that he was produced before the learned Magistrate beyond 24 hours.
23. I have carefully gone through the principles laid down in the judgment referred by the counsel for the accused No.2. The Hon’ble Supreme court in the case of **Directorate of Enforcement Vs Subhash**

Sharma (SLP (Criminal) No.1136/2023) held that, it is the duty of the court to uphold the fundamental rights guaranteed under Article 21 and 22 of the Constitution. In the said case the accused was produced before the learned Magistrate beyond 24 hours that too after delay of 4 hours from taking the accused in to physical custody. The principles laid down in this judgment cannot be made applicable to the case on hand, as there is no such inordinate delay on the part of police in producing the accused before the Magistrate in this case.

24. The Hon'ble High Court of Kerala in the case of **Biswajit Mandal V/s Inspector, Narcotic Control Bureau, Cochin Zonal Unit**, the Hon'ble High Court of Orissa in the case of **Jati @ Susanta Rout, Jilapi @ Basanta Sahu V/s State of Odisha**, the Hon'ble High Court of Telangana in the case **Smt.T.Ramadevi W/o T.Srinivas Goud V/s The State of Telangana** pleased to grant bail to the accused of those cases by considering inordinate

delay of hours together in producing the accused before the Magistrate from taking the accused in to physical custody. The principles laid down in the said judgments cannot be made applicable to the case on hand, as there is no such inordinate delay in this case in producing the accused before the Magistrate.

25. It is pertinent to note that, the present accused No.1 had filed similar application before the 1st Addl., District and Sessions Court, Chikkamagaluru in earlier occasion in Crl.Mis.No.309/2025, likewise accused No.3 had filed bail application in Crl.Mis.No.244/2025 and accused No.4 had filed bail application in Crl.Mis.No.298/2025 and all the said applications were dismissed by the said Court and order passed by the Court remains unchallenged. Further, no changed circumstances has been made out by the accused persons, so as to consider the instant applications.
26. It is pertinent to note that, the punishment for alleged offence under section 103(1) is punishable with death

or imprisonment for life and fine, section 238(a) of BNS., is also punishable with imprisonment for 7 years and fine and section 61(2)(a) of BNS., is also punishable with death, imprisonment for life or rigorous imprisonment for a term of 2 years or upwards. If the accused persons are released, their presence cannot be secured for the trial as they may abscond, tamper the prosecution witnesses and also may pose life threats to the complainant and witnesses, may commit similar offences. It is pertinent to note that mere filing of chargesheet in a criminal case is not the sole criteria to be taken into consideration while considering the grant of bail to an accused, as it has to be coupled with facts and circumstance involved.

27. Under these circumstances, looking into the gravity and heinousness of the offence, at this stage it may not be appropriate to release them on bail. If the accused persons are released, their presence cannot be secured for the trial as they may abscond. The

apprehension of prosecution are well founded. Hence, I have no hurdles to hold that no exceptional grounds are made out for grant of bail. Accordingly, I answered the Point No.1 is in 'Negative'.

28. **Point No.2**:- In view of my findings on Point No.1, I proceed to pass the following;

ORDER

The bail application filed by the accused No.1 and 2 under Section 483 of BNSS., 2023 is hereby dismissed.

The bail application filed by the accused No.3 under Section 483 of BNSS., 2023 is hereby dismissed.

The bail application filed by the accused No.4 under Section 483 of BNSS., 2023 is hereby dismissed.

(Typed my dictation directly on computer by the Stenographer Grade-III, corrected, signed and then pronounced in open court on this the 11th day of December, 2025).

Sd/-

(PRAKASH.V)

C/c II Addl., District and Sessions
Judge, Chikkamagaluru.