

**IN THE COURT OF THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE AND FTSC-I, CHAMARAJANAGARA**

DATED: THIS THE 10th JUNE 2026

PRESENT:

**Sri. S.J.KRISHNA
B.Sc., LL.B. ,
Addl. District & Sessions Judge,
FTSC-I, Chamarajanagara.**

**Spl.Case No: 76 of 2026
Cr. No. 30 of 2026**

**COMPLAINANT : State by Agara-Mamballi Police Station,
Chamarajanagara.**

**(By Learned Spl. Public Prosecutor,
Chamarajanagara)**

VERSUS

**ACCUSED : Sri. KUMARA @ KUMARASWAMY
S/o Sri.Somanna,
Aged about 25 years,
Occu:Worker in Sugar Factory,
R/At: Ambedkar Street, Agara Village,
Yelanduru Taluk, Chamarajanagara District.**

**(By Sri.N.K. Virupakshaswamy., Advocate,
Chamarajanagara)**

(A)	CASE DETAILS	
1:	FIR No. & DATE	30/2026 , Dt: 11.03.2026
2:	POLICE STATION, DISTRICT & STATE	Agara-Mamballi Police Station, Chamarajanagara District, Karnataka State.
3:	SECTION INVOKED & PUNISHMENT (Charge sheet submitted)	Section 64(2)(i) of BNS: Rigorous imprisonment for a term which shall not be less than 10 years but may extend to imprisonment for life ie., imprisonment for reminder of that person's natural life and fine. Section 4(1) of POCSO Act: Imprisonment of either description for a term which shall not be less than 10 years but which may extend to imprisonment for life and fine. Section 6(1) of POCSO Act: Rigorous imprisonment for a term which shall not be less than 20 years but may extend

		to imprisonment for life ie., imprisonment for remainder of that person's natural life and fine.
(B)	CUSTODY & PROCEDURE COMPLIANCE	
1:	DATE OF ARREST	12.03.2026
2:	TOTAL PERIOD OF CUSTODY UNDERGONE	02 months, 29 days
(C)	STATUS OF TRIAL	
1:	Stage of Proceedings (Investigation/Charge sheet/Cognizance/Framing of charges/Trial)	Charge sheet submitted. Charges are framed.
2:	Total Number of Witnesses cited in the Charge sheet	28
3:	Number of Prosecution Witnesses examined	Summons issued for the evidence of CW1 to 3
(D)	CRIMINAL ANTECEDENTS	
1:	FIR No. & Police Station	Not applicable
2:	Sections	–
3:	Status (Pending/acquitted/convicted)	–

(E)	PREVIOUS BAIL APPLICATIONS	
1:	Court	Nil
2:	Case No.	–
3:	Out come of Case	–
(F)	COERCIVE PROCESSES	
1:	Whether any non-bailable warrant was issued	No
2:	Whether declared as proclaimed offender	No

**ORDER ON BAIL APPLICATION FILED UNDER
SECTION 483 OF BNSS**

The accused has filed this application under Section 483 of Bharatiya Nagarika Suraksha Sanhita praying the Court to enlarge him on bail in respect of Spl. Case No:76/2026 (Cr.No:30/2026) registered by Agara-Mamballi PS, alleging offences punishable under section 64(2)(i) of BNS-23 and Section 4(1), 6 of POCSO Act, 2012.

2. The Case of the accused is as under:

The accused has stated that he is innocent of the offences alleged against him. He is a law abiding citizen. He has not involved in the alleged crime either directly or indirectly. He has been falsely implicated in the case.

2(a). The accused is coolie by occupation. He had no relationship whatsoever with the victim girl.

2(b). The offences alleged against the accused are not punishable either with death. The offences are triable by this Court.

2(c). The accused is a permanent resident of Mamballi Village, Yalenduru Taluk, Chamarajanagara District. Hence, there is no chances of absconding. If the accused is released on bail he would not tamper with prosecution witnesses and abide by conditions that may be imposed by the Court. He is ready and willing to furnish surety to the satisfaction of the Court. He has aged parents and they are depending on his income for their livelihood. He is the only bread earner of his family. If he is not released on bail his family members

will be put to difficulty for their livelihood. Hence, the application may be allowed.

3. The Ld Spl Public Prosecutor has filed objections to the bail application. The prosecution has reiterated the averments made in the complaint in its statement of objections. The IO has arrested the accused during the course of investigation and the accused is remanded to judicial custody, as such the application filed by the accused is not maintainable in law.

3(a). The offences alleged against the accused under section section 64(2)(i) of BNS and Section 4 and 6 of POCSO are punishable with imprisonment for a period of 20 years, and which may extend to imprisonment for life, death and shall also be liable for fine. The offences alleged against accused are grave and serious and non bailable in nature and are triable by the Court of Sessions (Special Court).

3(b). The investigation is completed and charge sheet is filed against the accused. If the the accused is released on bail at this stage there is every likelihood of accused obstructing the fair trial by pressurizing the witnesses.

The accused may abscond from the jurisdiction of the Court.

3(c). The accused enjoys the support of men and material. It is false to allege that the accused is an innocent person. The reasons assigned in the application are concocted for the purpose of filing this application. The accused has not furnished details regarding his occupation, identity and address. The accused is not entitled for bail. The prosecution has prayed for dismissal of the bail application.

4. I have heard the arguments addressed by the Ld counsel for the accused and the Ld SPP for the State.

5. I have gone through the materials available on record. The following points arise for my determination.

Point No.1: Whether the accused has made out a case so as to allow the application filed under Section 483 of BNSS?

Point No.2: What Order?

6. My findings to above said points are as follows:-

Point No.1: In the NEGATIVE;

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

REASONS

7. **Point No.1:** The mother of the victim girl is the first informant in this case. She has filed a complaint on 11.03.2026 against the accused. The Agara-Mamballi PS has registered a case in Cr.No:30/2026 for the offences punishable under sections 64 of BNS and section 4, 6 of POCSO Act.

8. The IO has arrested the accused and produced before the Court on 12.03.2026. The accused was remanded to the judicial custody. The judicial custody of the accused has been extended from time to time.

9. After the completion of the investigation the IO has submitted the charge sheet. A case is registered against the accused in Spl.Case No:76/2026.

10. After hearing the accused, the Ld counsel for the accused and prosecution the charges have been framed for the offences punishable under section 64(2)(i), 351(2) BNS, and section 4(1) of POCSO Act. The accused did not plead guilty to the charges and claimed

to be tried. Hence, summons have been issued to CW1 to 3 to record their evidence.

11. The accused has filed the present application for bail. After the receipt of notice on bail application, the victim girl and her father appeared before the Court and filed their objections to the bail application and prayed the Court to dismiss the same.

12. The case of the prosecution is as under:

The victim girl/CW2 is the daughter of first informant/CW1 and CW3. The CW2 was aged about 16 years 05 Months, 01 day (DOB:16.08.2009). The CW4 is the sister of accused and who is a friend of CW2. The CW2 used to visit the house of accused and CW4. On 17.02.2026 CW4 called the CW2 to her house to keep the cloths for her as CW4 was going to bath. Accordingly the CW2 went to the house of CW4 and kept the cloths for CW4 at about 01.00 PM when CW2 was returning to her house the accused took her by hand and dragged her to a room inside the house and removed the clothes of CW2 and committed penetrative sexual assault in spite of her protests. The accused

threatened the CW2 not to disclose the incident to any one. Hence, the charge sheet.

13. As per the ratio of various decisions of the Hon'ble Supreme Court of India, the Court has to consider the following factors while determining a petition/application filed by an accused seeking bail.

Prima facie evidence of guilt : Is there enough evidence to suggest the accused committed the crime?

Nature and gravity of the Offence: How serious is the crime?

Severity of potential punishment: What is the maximum sentence if convicted?

Risk of absconding: Is there a danger the accused will flee?

Character and behavior: What is the accused's reputation?

Likelihood of re-offending: Is there a risk of future crimes?

Potential influence on witnesses: Could the accused intimidate or bribe witnesses?

These factors are carefully weighed to determine whether bail should be granted.

14. The punishment provided for the offences alleged against the accused under section 64(2)(i) BNS and Section 4(1) of POCSO Act makes it evident that the offences alleged against him are grave and serious in nature.

15. It is settled Law that the Court shall not assess the evidence available on record while considering an application filed by accused seeking bail. In order to determine the entitlement of the accused to have the relief of the bail the Court has to consider whether the accused has made out a prima facie case to allow the application.

16. In this case the trial of the case is yet to be commenced. Hence, the Court has to consider the statement of witnesses including the statement of victim girl recorded under Section 180 and 183 of BNSS. The prosecution has alleged an offence punishable under section 4(1) of POCSO Act, 2012 as such the Court shall take into consideration the presumption provided under Section 29 of the Act, while determining

the application filed by the accused seeking his release on bail. At the same time the Court has to keep in mind that the personal liberty guaranteed under the Constitution cannot be diluted based on surmises. The presumption of innocence available to the accused cannot be compromised just because a serious and grave offence is alleged against him.

17. It is the case of prosecution that the accused who is a known person to the victim girl has committed penetrative sexual intercourse against her will. It appears that the victim girl and the accused had no friendship or relationship whatsoever.

18. The materials available on record show that the accused is aged about 25 years. The victim girl is aged about 16 years 06 months 01 day (DOB:16.08.2009) as on the date of alleged incident. The victim girl who had been to the house of her friend has become the prey to the accused who has seized the opportunity to gratify his lust. The materials available on record show that the prosecution has made out a prima facie case against the accused.

19. The filing of charge Sheet cannot be made a sole ground for the release of the accused on the plea that the accused is no longer required for custodial interrogation. The submission of charge sheet against the accused prima facie supports the allegations made against the accused.

20. The accused is contending that he is innocent of the offences alleged against him and the investigation is already completed and he undertakes to abide by the conditions that may be imposed by the Court as such he may be released on bail.

21. In this regard it is useful to refer to the following decision of the Hon'ble Supreme Court of India

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***The State of Jharkhand Vs. Dhananjay Gupta
@ Dhananjay Prasad***

at para 5 the Hon'ble Supreme Court has observed that

"5. When the offences alleged, inter alia, includes one under Section 307, IPC and the accused concerned is so arraigned with the aid of Section 149, IPC, such submissions, relected in paragraph

or the mere factum of completion of investigation by itself, cannot be the reason(s) for grant of bail without due consideration of the relevant aspects. At any rate, mere claim of innocence or undertaking to participate in the trial or contention of absence of specific allegation of any overt act cannot, in such circumstances, be assigned as reasons for grant of bail in a case of serious nature. We are of the considered view that in such circumstances, impugned order deserves to be set aside and the matter is liable to be remanded to the High Court for fresh consideration in accordance with law. In that view of the matter, the impugned order dated 12.01.2023 passed by the High Court in B.A.No.12508 of 2022 stands set aside and the matter is remanded back to the High Court for fresh consideration in accordance with law."

22. The ratio of the above decision squarely applies to the facts of this case. It is not the quantum of punishment alone prescribed for an offence which decides the gravity of the offence but the nature and impact of the offence alleged against him. In this case the accused by misusing the acquaintance of CW2 with his sister CW4 has committed penetrative sexual

assault on CW2. The accused has not only attacked the body integrity of the victim girl but her confidence towards her friend. The alleged acts of the accused has serious impact on the mental and physical well being of the victim girl and she is made to suffer for her innocence. The victim girl and her family members are exposed to social infamy by the ghastly acts of the accused person. Hence, the undertaking by him that he would abide by the conditions that may be imposed by the Court cannot be made as a ground to entertain his application for bail.

23. The victim girl and her father have expressed their apprehension that he may threaten them. If the accused is released on bail it will traumatize the victim girl and pave way for the accused to influence or exert pressure on the first informant and her family members so as to dissuade them from participating in the trial effectively since the accused and the victim girl are the residents of same locality. The apprehension expressed by the prosecution that the accused may tamper with prosecution witnesses has to be seen in this background, as the evidence is yet to be adduced by the prosecution.

24. If the accused is released on bail it would embolden the perpetrators of crime against children. A careful scrutiny of the materials available on record in the backdrop of personal liberty of the accused the scale tilts towards the safety of the victim girl and interest of the society at large in rejecting the bail application filed by the accused. In these circumstances, the accused is not entitled for bail. Accordingly, **Point No.1** is answered **in the Negative**.

25. **Point No.2:** In view of findings on Point No.1, I pass the following ;-

ORDER

The application filed under Section 483
of BNSS by accused is hereby dismissed.

(Dictated to the Stenographer directly on computer there afterwards corrected and printed, signed and pronounced by me on 10th day of June, 2026)

(S.J.KRISHNA)

Addl. District and Sessions Judge,
FTSC-I, Chamarajanagara.

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