

KADG010009022026



Presented on : 12-03-2026
Registered on : 12-03-2026
Decided on : 25-03-2026
Duration : 0 years, 0 months, 13 days

**IN THE COURT OF
II ADDL. DISTRICT AND SESSIONS JUDGE
AT: DAVANAGERE**

**PRESENT:- SRI. PRAVEEN KUMAR. R.N, B.Com, LL.B.
II ADDL., DISTRICT & SESSIONS JUDGE,
DAVANAGERE.**

DATED THIS THE 25TH DAY OF MARCH, 2026

Crl.Misc./228/2026

PETITIONER/S:-

Nagaraj, S/o Hanumanthappa, 45
years, Coolie work, R/o
Kakkaragolla Village, Davanagere
Taluk & District, (A.No.2),

(By Smt./Sri.H.C., Advocate),

// Vs //

RESPONDENT:-

State by Rural Police Station,
Davanagere,

(By Public Prosecutor, Davanagere),

∴ ORDER ON BAIL PETITION FILED U/S.438 CrPC ∴

This bail petition is filed by the petitioner / accused No.2, under Sec.438 of Cr.P.C., with a prayer to grant him an order of anticipatory bail in his favour in connection with Cr.No.341/2015 and CC.No.6/2016 registered by the Respondent Police Station for the offence U/Sec. 380 of IPC.

2. Grounds for bail : The petitioner contend that the case has been lodged against him with mala fide intent to illegally arrest him and to subject him to mental and physical harassment.

3. The petitioner further asserts that he is respectable individual, well-rooted in society. His permanent residence is at the address mentioned in the cause title. He argues that if he arrested by the respondent police, his reputation in society will be tarnished. He claims that a false complaint has been filed solely to harass him and damage his social standing. Consequently, the petitioner is under a reasonable apprehension of being arrested by the respondent police.

4. The petitioner submits that if granted bail, he is willing to comply with any conditions imposed by the court and is prepared to furnish sufficient surety for the satisfaction of the court. Hence, pray for the bail petition to be allowed.

5. The learned Public Prosecutor (PP) for the state has filed objections to the petition, contending that a prima facie case has been

made out against the petitioner for the alleged offences. The prosecution asserts that the petitioner has committed a serious offences, which are heinous in nature and against the interest of society.

6. The learned PP further argues that if the petitioner is granted bail, there is a risk of interference in the investigation, tampering with prosecution witnesses, or absconding. Additionally, the prosecution contends that the petitioner has not provided sufficient grounds to justify bail. Therefore, the prosecution prays for the rejection of the bail petition.

7. Having heard both side and on perusal of the documents, I framed the following points for consideration :-

1. Whether the petitioner is entitled to the relief of anticipatory bail under Sec. 438 of Cr.P.C. ?
2. What order ?

8. My answer to the above points are as follows :-

Point No.1 : In the Affirmative,

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

REASONS

Point No.1 :-

9. The brief facts of the case are that :- As per the complaint, the complainant is a police officer. On 30.10.2015, at about 1.00 p.m.,

while the complainant and his staff were patrolling in Kadlebalu village, they noticed three persons coming in front of Sri Anjaneya Swami Temple, one of whom was holding a water pump in his hand. On seeing the complainant and the police vehicle, all three persons attempted to flee. Subsequently, the complainant and his staff apprehended them and, upon questioning, they stated that they had stolen a motor pump which was kept at Chowdamma Temple, situated in the land of Nagaraju, at about 12.30 a.m. Accordingly, the complainant lodged a complaint before the respondent police. Thereafter, the respondent police registered a case, conducted the investigation, and filed a charge sheet against the petitioner and other accused persons.

10. The learned counsel for the petitioner contended that the petitioner has not committed the alleged theft. It is further submitted that the respondent police, without any justifiable reason, issued a notice to the petitioner to appear before the police station. It is also contended that the alleged offences are not punishable with death or imprisonment for life and are triable by a Magistrate Court. It is further submitted that the investigation has already been completed and the Investigating Officer has filed the charge sheet against the petitioner.

11. It is further argued that no prima facie case is made out against the petitioner. If the petitioner is arrested, his family life and social reputation would be adversely affected. It is submitted that the petitioner has aged parents, a wife, and children to look after. He owns movable and immovable properties in his native place and is earning his livelihood by doing coolie work. His permanent residence is as

mentioned in the cause title, and he is ready to abide by any conditions that may be imposed by this Court and to furnish sufficient surety to the satisfaction of the Court, if bail is granted. It is further submitted that, since the charge sheet has already been filed, the petitioner is not required for further custodial interrogation. Hence, the learned counsel prayed to allow the bail petition.

12. Per contra, the learned Public Prosecutor contended that the alleged offences are serious in nature and are offences against society at large. It is further submitted that the petitioner, along with accused Nos. 1 and 3, committed theft of the motor pump. The learned Public Prosecutor further contended that, if the petitioner is enlarged on bail, there is every likelihood of him committing similar offences in future. It is also argued that a prima facie case is made out against the petitioner and that, if released on bail, there is a possibility of his intimidating prosecution witnesses and tampering with prosecution evidence. Though the offences are triable by a Magistrate, considering the gravity and seriousness of the allegations, the learned Public Prosecutor prayed for dismissal of the petition.

13. At this stage, it is evident that the Investigating Officer has already filed the charge sheet against the petitioner. On perusal of the charge sheet, it is seen that the petitioner was not arrested during the course of the investigation. Therefore, the question that arises for consideration is whether the petitioner is required for custodial interrogation at this stage. As already noted, the police have completed the investigation and filed the charge sheet before the Court.

14. Further, at this stage, it is not possible to ascertain the guilt of the petitioner, and the same requires a full-fledged trial. It is also evident that the investigation has already been completed. The petitioner is a permanent resident of the address mentioned in the cause title and is willing to furnish sufficient surety if released on bail. The petitioner has undertaken to appear before the Court on all hearing dates and not to tamper with prosecution witnesses. Hence, there appears to be no legal impediment to grant bail to the petitioner. At this stage, it is also evident that only a non-bailable warrant has been issued and the petitioner has not been declared a proclaimed offender.

15. Considering the above aspects, the petitioner has expressed his willingness to abide by any conditions imposed by the Court and to cooperate with the Investigating Officer. He has undertaken to furnish sufficient surety to the satisfaction of the Court. It is also stated that the petitioner has aged parents, a wife, and children, is doing coolie work, and is the sole earning member of his family. At this stage, it is clear that the charge sheet has already been filed and the petitioner is not required for custodial interrogation.

16. The offences alleged against the petitioner do not attract punishment of death or imprisonment for life. The petitioner has undertaken to abide by all conditions, to cooperate with the investigation, and to furnish sufficient surety. Until completion of the full-fledged trial, it would be premature to draw any conclusion regarding the guilt of the petitioner.

17. The petitioner apprehends arrest and harassment at the hands of the jurisdictional police. However, grant of anticipatory bail does not curtail or restrict the lawful rights and duties of the investigating agency. In view of the facts and circumstances of the case, there is no legal bar to grant anticipatory bail to the petitioner.

18. Under these circumstances, I am of the view that, by imposing stringent conditions on the petitioner, the apprehensions expressed by the State can be adequately addressed. Accordingly, based on the above observations, I answer Point No. 1 in the Affirmative.

POINT No.2 :-

19. In view of the finding of this court on point No.1, I proceed to pass the following :-

O R D E R

Petition filed by the petitioner / accused No.2 U/Sec.438 Cr.P.C., is hereby allowed.

Petitioner is ordered to be released on bail in the event of his arrest in Cr.No.341/2015 and CC.No.06/2016 of Respondent police station, for the offence punishable U/Sec.380 of IPC, on executing his personal bond for Rs.50,000/-, with double surety for like-sum, and subject to following conditions :-

1) Petitioner shall surrender before the trial court when the case is in hearing.

- 2) He shall co-operate with the IO in proper investigation of the case.
- 3) He shall not tamper the prosecution evidence and threaten the prosecution witnesses directly or indirectly.
- 4) He shall not commit similar type of offences in future.
- 5) He shall appear before court regularly and shall furnish bond and surety as and when directed by the court.
- 6) He shall provide the address proof before the trial court.

The violation of the above conditions entails cancellation of the bail.

(Directly dictated to the Stenographer on the computer, transcript, corrected, signed and then pronounced by me in the open court on this the 25th day of March, 2026),

(Praveen Kumar R.N.)
II Addl. District & Sessions Judge,
Davanagere,

(Order pronounced in the open court)
Vide separate order

O R D E R

Petition filed by the petitioner /
accused No.2 U/Sec.438 Cr.P.C., is
hereby allowed, subject to conditions.

2nd ADJ, Davanagere.