

KADG010024692025



Presented on : 06-08-2025

Registered on : 06-08-2025

Decided on : --

Duration :

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

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

DATED THIS THE 15TH DAY OF OCTOBER, 2025

SPL.CASE NO. 346/2025

COMPLAINANT:-

State by Vidyanagar Police,
Davanagere,

(By Public Prosecutor, Davanagere)

/Vs/

ACCUSED / :

Chavali Santu @ Santhu, S/o
Parameshnaik, 28 years, Coolie, R/o 4th
Cross, Kabburu Basappa Nagara,
Bharath Colony, Davanagere, (A.No.1),

: ORDER ON BAIL APPLICATION FILED U/S.483 OF BNSS :

This bail petition is filed by the petitioner /accused No.1 under Sec.483 of BNSS, with a prayer to release him on bail in connection with Crime No.103/2025 on the file of this court for the offences punishable U/s 189(2), 191(2), 191(3), 103(1), 238(a), 61(2) R/w.Sec.190 of BNSS, 2023, and Sec. 27(1) & (5) of Indian Arms Act, 1959.

2. The grounds for bail in the petition: As per the accused, he is innocent and he has no knowledge in respect of the alleged allegations against him. As per the accused, the case is lodged against him by on malafide intention and to illegal arrest him by the police and only to give harassment.

3. As per the accused is respectable person and deep rooted in the society and law abiding citizen, he has not at all committed any offences as allegation made by the complainant. The allegations made by the complainant is made with an intention to harass the accused. The complainant has intentionally made some false allegations in order to tarnish the image of the accused, he has not present at the time of incident. The accused is in judicial custody from 07.05.2025 and his permanent resident is the above cause title address. He is having a family and he is having movable and immovable properties in his place. If the accused are not released on bail, their family would suffer very loss and injury. The accused have been falsely implicated in this case. There is no prima facie

case is made out against the accused. If the accused is released on bail, he is ready to abide by all the conditions imposed by the court and is ready to offer surety to the satisfaction of the court. Hence, prayed to allow the petition.

4. Per contra, the learned PP filed objections to the bail petition contended that the non-bailable offence was lodged against the accused and there is a prima facie case is made out against him. In the objection it is contended that if the accused released on bail, there is a chances of interfering the investigation and tampering the prosecution evidences as well as threatening the prosecution witnesses. In the objection it is further contended that the accused is not made any sufficient grounds for the relief of anticipatory bail and prayed to reject the petition.

5. On perusal of the petition, objection, FIR and charge sheet, I framed following points for consideration: –

1. Whether the accused is entitled to the relief of bail under Sec. 483 of BNSS ?
2. What order ?

6. My answer to the above points are as follows ;-

Point No.1 : In the Negative,

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

R E A S O N S

Point No.1 :-

7. The brief facts of the case is that, The complainant is a housewife. On 05.05.2025, at around 1:00 p.m., her husband finished his lunch and left the house. Around 5:30 to 5:45 p.m., one of her relatives called and informed her that at about 5:00 p.m., some unknown persons had attacked and murdered her husband using deadly weapons on Hadadi Road, in front of Someshwara Hospital. The complainant immediately rushed to the spot and found her husband dead. It is alleged that the accused committed the murder with malicious intent. After learning that the accused was involved in the incident, the complainant lodged a complaint against him. Based on the said complaint, a case has been registered.

8. During the course of arguments, the learned counsel appearing on behalf of the accused contended that the accused is in no way connected with the alleged offence and that he has been falsely implicated by the police. It was further argued that at the stage when the crime was registered, the accused had moved for bail, but the same was rejected on the ground that the charge sheet had not yet been filed. The counsel submitted that now the charge sheet has been filed; however, there are no prima facie materials collected by the investigating agency to show that the present accused is directly connected with the alleged crime or that he conspired with the main accused. The counsel further argued that in order to prove conspiracy, there must be cogent and convincing material, whereas in the present case, there is a complete lack of such evidence in the charge sheet. On such weak material, it is not possible for the Court

to conclude that the accused conspired with others to eliminate the deceased.

9. It was further contended that merely because some criminal cases were registered earlier against the accused, the same cannot be a ground to reject the present bail petition. It is not the registration of cases but conviction in such cases that has relevance. In the absence of conviction in any earlier matter, the accused cannot be deprived of his right to bail. The learned counsel further relied upon an order of the Hon'ble High Court of Karnataka, wherein in a similar offence, the bail petition was rejected by the trial court but allowed by the High Court. The said decision was also produced for consideration. It was also submitted that bail is the rule and jail is the exception, and that this Court is the ultimate guardian of the individual liberty of citizens. The accused is ready to abide by all conditions that may be imposed by the Court and also undertakes to furnish adequate surety for his future appearance. Further, counsel contended that if bail is granted, it would help the accused to undergo surgery to remove the bullet lodged in his leg due to the negligent act of the police. On these grounds, the counsel prayed to allow the bail application.

10. In contra, the learned Public Prosecutor argued that the accused is facing allegations of committing a heinous offence involving the brutal murder of an individual. It was contended that the punishment prescribed for such an offence is severe and may even extend to the death penalty. The learned Public Prosecutor further submitted that the filing of the charge sheet itself establishes that

substantial material has been collected by the investigating agency against the accused. Merely because the investigation is completed and the charge sheet has been filed, the accused cannot claim bail as a matter of right. On perusal of the charge sheet, it is evident that there are sufficient materials to show that the accused conspired with the other accused persons to eliminate the deceased.

11. It was also contended that the accused has scant regard for the law and is a habitual offender, disturbing peace and order in society. It was argued that actual participation in the murder of an individual and conspiracy to commit such an act, including providing financial assistance or supplying weapons, are equally grave, if not more heinous, than direct involvement in the act of murder. The Public Prosecutor further contended that the accused is involved in several other serious offences, and if he is enlarged on bail, there is every likelihood that witnesses will be threatened or influenced, thereby obstructing the course of justice. Further, he submitted that the filing of the charge sheet does not amount to a change in circumstance; rather, it strengthens the case of the prosecution regarding the existence of a prima facie case. It was further contended that in the instant case, CCTV footage has also been recovered, which establishes the involvement of the petitioner/accused in the heinous crime. On these grounds, the Public Prosecutor prayed for rejection of the bail petition. He further contended that the deceased also had criminal antecedents, and if the accused is released on bail, there is a risk to his life from the followers of the deceased.

12. At this stage, the record reveals that the prosecution has alleged the involvement of the present accused in the conspiracy to commit a brutal murder. It is well settled by the superior courts that while deciding bail applications in such cases, the Court must consider the following aspects:

1. Whether there are reasonable grounds for believing that the accused has committed the offence;
2. The nature and gravity of the accusation;
3. The severity of the punishment in the event of conviction;
4. The possibility of the accused absconding if released on bail;
5. The character, conduct, antecedents, and background of the accused;
5. The likelihood of the accused repeating the offence;
6. The possibility of the accused influencing witnesses; and
7. The risk of justice being obstructed if bail is granted.

13. It is true that at the initial stage, the accused had moved for bail, which was rejected on the ground that the investigation was pending. Now, at this stage, the investigation has been completed and the charge sheet has been filed. However, the contention of the learned counsel for the accused that the filing of the charge sheet gives an accrued right to bail cannot be accepted. The settled position of law is that if prima facie materials are available in the charge sheet showing the involvement of the accused in a heinous crime like murder, the accused is not entitled to bail merely on the ground that the charge sheet has been filed.

14. On perusal of the charge sheet and the documents annexed thereto, it is revealed that the accused who has sought bail is directly involved in the heinous act. During the course of the investigation, the Investigating Officer has collected several pieces of evidence against him. Some witnesses have also given statements implicating the accused, and according to the prosecution, CCTV footage has been recovered which establishes the direct involvement of the accused in the case at this stage. There is considerable force in the submissions of the learned Public Prosecutor. Considering the gravity of the offence, the likelihood of the accused influencing witnesses, and his criminal background, I am of the view that the accused is not entitled to bail.

15. No doubt, bail is the rule and jail is the exception, but this principle does not apply universally to all cases. In offences of such gravity, where the accused has played an active role in conspiracy and preparation for the commission of a heinous crime, this rule cannot be applied blindly. The submission of the Public Prosecutor that the accused/petitioner is involved in several heinous offences shows that he has been repeatedly indulging in serious criminal activities.

16. The apprehension of the prosecution that if the accused is released on bail, the witnesses will not come forward to depose freely appears to be well-founded. Further, there is some weight in the argument of the Public Prosecutor that if the accused is released on bail, there is a risk to his life from the followers of the deceased. Some of the witnesses have already given statements regarding the

conspiracy, and the CDR reports are yet to be collected by the investigating agency. Considering the gravity of the offence, the severity of punishment, and the possibility of obstruction of justice, I am of the considered view that the accused is not entitled to bail.

17. The decision of the Hon'ble High Court of Karnataka relied upon by the learned counsel for the accused is distinguishable on facts. The nature of the allegations, the role attributed to the accused, and the gravity of the present offence are entirely different. Hence, the said decision cannot be applied to the present case.

18. On an overall consideration of the materials placed before this Court, I hold that there are no grounds to allow the bail petition. Accordingly, I answer Point No.1 in the *Negative*.

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

The Petition filed by the petitioner / accused No. 1 U/Sec.483 of BNSS, is hereby rejected.

Further, the accused has sought medical aid for the removal of the bullet lodged in his leg. This Court has already obtained an opinion from the medical authorities, and the jurisdictional police have expressed their readiness to take the accused for

medical treatment within their jurisdiction. Hence, it is directed to the jail authorities to provide necessary medical assistance to the accused, as already ordered by this Court, and to ensure that he is taken to the jurisdictional Government Hospital for the removal of the bullet lodged in his leg. The said treatment shall be provided at the cost of the State in a Government-authorized hospital.

(Typed to my dictation by the Stenographer directly on the computer, corrected, signed and then pronounced by me in the open court on this the 15th day of October, 2025),

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

Order Pronounced in the open court
(Vide separate order)

ORDER

The Petition filed by the petitioner /
accused No. 1 U/Sec.483 of BNSS, is
hereby rejected.

2nd ADJ, Davanagere.

