

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 27TH DAY OF MARCH, 2026

SPL.CASE NO. 346/2025

COMPLAINANT:-

1. State by Vidhyanagara Police Station,
Davanagere,

(By Public Prosecutor, Davanagere)

2. Smt. Shruthi T.K., W/o Late
Santoshkumar K. @ Kanama, 40
years, R/o Near Khadikendra,
Nittuvalli, Davanagere,

/Vs/

ACCUSED / :

1. Shivappa A.K., @ Chikkanahalli Shiva @ Kabbaddi Shivu, S/o Manjappa Nalkunda, 35 years, Coolie work, R/o Behind APMC Market, 2nd Cross, Halechikkanahalli, Davanagere, (A.No.13),
2. Vijayanaika K., @ Gadda Viji, S/o Krishnanaiak, 31 years, R/o 9th Cross, Bharath Colony, Davanagere – 03 (A.No.14),

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

This bail petition is filed by the petitioners /accused No.13 & 14 under Sec.483 of BNSS, with a prayer to release them on bail in connection with Crime No.346/2025 on the file of this court for the offences punishable U/s 103(1), 238(a), 189(2), 191(2), (3), 61(2) R/w.Sec.190 of BNSS, 2023 and Sec. 3(2)(v-a), 3(2)(V) of SC / ST (POA) Act, 1989 and 27(1), 5 of Indian Arms Act, 1959.

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

3. The accused are respectable persons and deep rooted in the society and law abiding citizens, they have not at all committed any offences as allegation made by the complainant. The allegations made by the complainant are 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, they have not present at the time of incident. The accused are in judicial custody from 12.05.2025 and their permanent resident is the above cause title address. They are having family and they are having movable and immovable properties in their 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 are released on bail, they are ready to abide by all the conditions imposed by the court and are 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 them. 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 are not made any sufficient grounds for the relief of regular bail and prayed to reject the petition.

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

1. Whether the accused are entitled to the relief of bail under Sec. 483 of BNSS ?

2. What order ?

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

 1. Point No.1 : In the Affirmative,
 2. 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,** On going through the prosecution version, it is the case of the prosecution that the complainant is a housewife. On 05.05.2025, at around 1:00 p.m., the complainant's husband finished his lunch and left the house. Around 5:30 to 5:45 p.m., one of the relatives of the complainant 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 were involved in the incident, the complainant lodged a complaint against them. 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 are in no way connected with the alleged offence and that they have 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 are directly connected with the alleged crime or that they have 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. Learned counsel for the accused further submitted that the complainant's husband had murdered one Bullanaga at SOG Colony along with other accused persons. It is alleged that they were illegally grabbing public property by threatening people with political support. He was also a rowdy-sheeter who used to assault and threaten people who opposed him. In connection with the murder of Bullanaga, it is contended that the 1st accused and the complainant's husband had a dispute over money, and therefore, the 1st accused committed the murder along with other accused persons. The counsel further submitted that since accused Nos. 12, 15, and 17 have already been released on bail by the Hon'ble High Court, the present accused are also entitled to be released on bail on the ground of parity. This Court has already released accused Nos. 18 to 20 on bail.

10. It is further submitted that the Investigating Officer has already filed the charge sheet and stated that the custodial interrogation of the accused is no longer required. The learned counsel relied upon settled principles laid down by the Hon'ble Supreme Court and the Hon'ble High Courts that "bail is the rule and jail is an exception," and therefore the accused are entitled to be released on bail. It is also contended that the petitioners have aged parents, wives, and children, and that their aged parents are suffering from age-related ailments. The petitioners are the sole breadwinners of their families, and if they are not released on bail, their families will suffer irreparable hardship. The accused are ready to abide by all conditions that may be imposed by this Court and undertake to furnish adequate sureties for their appearance. On these grounds, the counsel prayed to allow the bail application.

11. Per contra, the learned Public Prosecutor contended that the prosecution case clearly discloses that these accused persons conspired with other accused persons to commit the murder. It is further contended that a conspirator bears equal responsibility as that of the principal offenders who executed the crime. It is also pointed out that this Court had earlier rejected the bail applications of these accused persons both at the crime stage and at the stage of framing of charge. However, once again, the present bail petition has been filed without any substantial change in circumstances. The learned Public Prosecutor further contended that the seriousness and gravity of the offence must be taken into consideration before granting bail. In the

present case, certain witnesses have given statements before the Investigating Officer implicating these accused persons.

12. The learned Public Prosecutor further submitted that the materials placed on record prima facie show the involvement of the accused persons in the commission of the offence, allegedly to eliminate the deceased, who was said to have had an illicit relationship with Accused No.1. It is further contended that unless the material witnesses and expert witnesses are examined during trial, it would not be proper to grant bail in a serious offence of this nature. He also submitted that the filing of the charge sheet cannot be treated as a change in circumstance; rather, it strengthens the prosecution case. On these grounds, the learned Public Prosecutor prayed to reject the bail application.

13. It is well settled by the superior courts that while deciding bail applications, the Court must consider the following aspects:

- * Whether there are reasonable grounds for believing that the accused has committed the offence;
- * The nature and gravity of the accusation;
- * The severity of the punishment in the event of conviction;
- * The possibility of the accused absconding if released on bail;
- * The character, conduct, antecedents, and background of the accused;
- * The likelihood of the accused repeating the offence;

- * The possibility of the accused influencing witnesses; and
- * The risk of justice being obstructed if bail is granted.

14. It is true that at the initial stage, both at the crime stage and after filing of the charge sheet, these petitioners had moved for bail, which came to be rejected on the ground that the investigation was pending and that serious offences were alleged against them. The same reasoning was applied to other co-conspirators, and their bail applications were also rejected by this Court. However, subsequently, the Hon'ble High Court of Karnataka and the Hon'ble Supreme Court of India have granted bail to those accused persons whose roles are similar to that of the present petitioners. Thus, there is a change in circumstance. When the superior courts have observed that such accused were only conspirators and not directly involved in the commission of the offence, the principle of parity would apply to the present petitioners as well.

15. Further, it is the contention of the prosecution that if the petitioners are released on bail, there is a likelihood of them threatening prosecution witnesses and absconding. Nevertheless, the petitioners have expressed their willingness to abide by all conditions imposed by this Court and to furnish sufficient sureties. Hence, at this stage, it appears that by imposing stringent conditions, the apprehensions of the prosecution can be addressed. Accordingly, Point No.1 is answered in the Affirmative.

16. **Point No.2** :- In view of the finding of this court on point No.1, I proceed to pass the following :-

O R D E R

The application filed by the accused No.13 & 14 U/Sec.483 of BNSS, is hereby allowed.

Accused are ordered to be enlarged on bail on executing personal bond for a sum of Rs.1,00,000/- each with two sureties and subject to the following conditions :

- 1) Accused shall not tamper or threaten the prosecution witnesses.
- 2) Accused shall attend before the court on all the dates of hearing regularly, and also shall co-operate during the trial of the case.
- 3) Accused should furnish the Aadhar Card and their authenticated residential proof.

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

(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 27th day of March, 2026),

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

Davanagere,

Order Pronounced in the open court
(Vide separate order)

ORDER

The application filed by the accused
No.13 & 14 U/Sec.483 of BNSS, is hereby
allowed, subject to conditions.

2nd ADJ, Davanagere.