

KADK010020132026



**In the Court of Principal District and Sessions
Judge, D.K., Mangaluru.**

-:Present:-

Sri Basavaraj, B.Com., LL.M.,
Principal District and Sessions Judge,
D.K., Mangaluru.

Dated: This the 10th day of June, 2026.

Crl.Misc./391/2026

Petitioner: Suleman K.E.
Aged about 34 years,
S/o. K.M. Ismail,
R/at #548, Market Road,
Koppa Post & Village,
Chikmagaluru District.

(Sri. B. Zakeer Hussain, Advocate)
Versus

Respondents: 1) The State Represented by
the S.H.O. Ullala P.S.
Mangaluru D.K.

2) The Deputy Director of
Mines & Geology Department,
Mangalore, D.K., Represented by
Learned Public Prosecutor,

(By Learned Public Prosecutor)

i	Provision under which the application is filed	U/Sec.482 of B.N.S.S.
ii	Relief sought for	Anticipatory bail.
iii	The date on which the application	05.05.2026

	is filed	
iv	Number of the application	–
v	The date on which the objection is filed by different opponents	21.05.2026.
vi	The date on which the order was passed on the said application	10.06.2026.

ORDER

This petition is filed by the petitioner/accused u/Sec. 482 of B.N.S.S. 2023 for grant of anticipatory bail to him in connection with CC No. 2894/2019 on the file of JMFC (VII Court), Mangaluru registered for the offences punishable under Sec. 21 of MMDR Act 1957 and Rules 3(1), 36(3), 43 and 44 of KMMC Rules 1994.

2. The learned Public Prosecutor filed objections to the bail petition along with report of Investigating Officer.

3. Heard and perused the records.

4. The points that would arise for consideration are as under:

1) Whether the petitioner is entitle for grant of anticipatory bail in connection with PC No. 86/2019 on the file of JMFC (VII Court), Mangaluru?

2) What Order?

5. My finding to the above points are as follows:

Point No.1 : In the Affirmative,

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

REASONS

6. **Point No.1**: The averments of private complaint reveals that on 23.03.2018 at 10.00 p.m. at Hoige Hithlu, Near Vijaya Bank, Thalapady Village, the Sub-Inspector of Ullal Police while on rounds duty, a Lorry bearing Reg.No.KA-20/C-8744 came and on inspection, the said lorry was loaded with sand and transporting the same towards Kerala side illegally without having any permit. Therefore, Inspector of Ulala P.S. seized the said vehicle and reported to the complainant and handed over to the concerned Department to take further action. Hence, the complainant filed the private complaint before the JMFC (VII Court), Mangaluru against the petitioner for the offence punishable u/s 21 of MMDR Act, 1957 (Amendment 2015) and Rules 3(1), 36(3), 34 and 44 of KMMC Rules 1994 (Amendment Rules 2023). On the basis of private complaint, the case has been registered as PC No.86/2019 on the file of J.M.F.C. (VII Court), Mangaluru.

7. After taking cognizance of the offences, the case has been registered as CC No.2894/2019 and the jurisdictional Magistrate issued process for appearance of the accused.

8. Now the petitioner came up with this petition seeking anticipatory bail.

9. In the application by reproducing the averments made in the complaint it is further stated by the petitioner that he has been falsely implicated in the above case. The learned JMFC (VII Court), Mangaluru took the cognizance of the alleged offences and registered the case as CC and issued NBW against the petitioner and recorded that the petitioner is absconding and initiated proclamation proceedings. The said order has been passed without proper service of summons. The petitioner was formerly the registered owner of the said vehicle. However, much prior to the alleged incident, the petitioner had sold the vehicle to one Mr. Abdul Hameed and handed over the possession and other relevant documents. The RTO of Mangaluru issued a RC extract showing the ownership transferred to Abdul Hameed. The petitioner is the resident of above mentioned address along with his family. The petitioner has no knowledge about pendency of the case and the summons has not been served to the petitioner. The petitioner is a member of panchayath. There is no criminal antecedents

against him. The apprehension of arrest is real and reasonable. The petitioner is ready to offer surety for his release on bail. So, prays to allow the petition.

10. The learned Public Prosecutor has filed objections to the petition by reproducing the averments made in the complaint and contended that the petitioner has transported the valuable sub-mineral without any permit and without paying royalty to the government in a lorry, hence he is not entitle for bail. The petitioner is absconding from the date of registering the case and he is required for investigation. So, prays to reject the petition.

11. Learned Counsel for the petitioner has produced the certified copies of order sheet in CC No.2894/19, which reveals that the petitioner remained absent inspite of knowledge of issuance of summons by RPAD and later on the NBW came to be issued and thereafter, the court issued proclamation, which was duly published on 04.02.2026 and it was carried out in the presence of two panchas.

12. As stated above, the petitioner is absconding and proclamation issued against him was duly executed. In **2021 (4) Crimes 303 (SC) [Prem Shankar Prasad Vs State of Bihar and another]** the Hon'ble Supreme Court of India held that "When the accused is absconded and he is

the proclaimed offender u/Sec. 82 of Cr.P.C., then he is not entitle for anticipatory bail. The principles held in this ruling is aptly applicable to the case on hand. Hence, the petitioner is not entitle for anticipatory bail. If the petitioner is released on bail he will again abscond and he may not appear before the court, which will hamper the trial of the case. So for all these reasons, the petitioner is not entitle for bail. Hence, Point No.1 is answered in the Negative.

13. **Point No.2:** In view of reasons and finding given on Point No.1, this Court proceeds to pass the following:

ORDER

The bail petition filed by the petitioner
u/Sec. 482 of B.N.S.S. is dismissed.

(Dictated to the Stenographer Grade-III, typed by her directly on computer, corrected and signed by me and then pronounced in the open court on this the 10th day of June, 2026).

(Basavaraj)

Principal District & Sessions Judge,
D.K., Mangaluru.