

KADK300003502026



**IN THE COURT OF THE V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, D.K. MANGALURU, SITTING AT
PUTTUR, D.K.**

Dated: - This the 19th day of June 2026

PRESENT

SRI. SADANANDA NAGAPPA NAIK., BAL. L.L.B.,
V Additional District And Sessions Judge,
D.K., Mangaluru, sitting at Puttur D.K.

:: Crl.Misc./5145/2026 ::

**Petitioner/
Accused No.2**

Chacocha

S/o. Late G Thomas,
Aged about 51 years,
R/at. C R Nilaya, Kudadka,
Kowkradi village,
Nelyadi Post,
Kadaba Taluk, D K District.

(By Sri. B.N.P., advocate)

- V/S -

Respondent

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The State
Rep., by Puttur Rural P. S.

(By Learned Public Prosecutor)

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**ORDERS ON BAIL APPLICATION FILED U/S 483 OF BNSS
-2023 ON BEHALF OF THE ACCUSED NO.2**

The petitioner/Accused No.2 has filed bail application under Section 483 of BNSS for his release on bail in Crime No.21/2026 of Uppinangady Police Station which has been registered against him for the offences punishable u/s 61(2)(a), 103(1) r/w section 3(5) of BNS, pending on the file of 1st additional Civil Judge & JMFC, Puttur. The accused is in Judicial custody since 14.02.2026.

GROUND FOR BAIL

The petitioner/Accused No.2 is innocent, has not committed any alleged crime. He is falsely implicated by the police. A perusal at the charge sheet does not indicate any overt act against the petitioner/Accused No.2. Entire prosecution case rests on indirect evidence with several missing links in the chain of alleged circumstantial evidence. The prosecution has not produced any material/evidence to prima facie establish the guilt of the accused. Besides, no materials are produced to exhibit existence of culpable intention to accused to do away with the deceased. Investigating officer has not collected and placed any material to implicate the petitioner/Accused No.2 except confessional statement of accused No.1 and same is legally inadmissible. Thus based on weak, inadmissible evidence the

petitioner/Accused No.2 is implicated and I.O. has not produced any corroborative evidence. Even according to the I.O., the petitioner/Accused No.2 has not directly participated in commission of alleged crime. He is mere onlooker of the alleged incident. He has not assaulted the deceased nor helped accused No.1 to assault the deceased. Entire charge sheet materials do not disclose the basis for arrest of accused persons. According to the police, they have arrested the accused after collection of enough materials/evidence against the petitioner/Accused No.2 from 08-02-2026 till date of arrest on 14-2-2026. But the I.O. has not produced said evidence/materials so collected against the petitioner/Accused No.2 before his arrest. Thus, the accused/petitioner/Accused No.2 has been arrested without any basis and on mere suspicion. The very initiation of FIR is based on opinion/report of doctor and when that being the case said opinion based FIR is generally not being the case said admissible. The petitioner/Accused No.2 is not having any criminal antecedents and is working as Court staff in Belthangady. For no fault of his, the petitioner/Accused No.2 is undergoing pre-trial conviction. The petitioner/Accused No.2 is ready to abide by the conditions imposed by this Hon'ble Court and the petitioner/Accused No.2 is no more required for any further interrogation. On these grounds,

he prays to allow the petition in the interest of justice. In support of his prayer, he has filed memo with three citations along with copy of chargesheet

3. The Learned Public Prosecutor has filed objections along with the report of the I.O. by interalia contending that the investigation so far as made by the I.O., reveals that the petitioner/Accused No.2 has committed the offences punishable under Section 61(2)(a), 103(1) r/w section 3(5) of BNS. The Accused has committed heinous offence, which is not bailable. The Accused No.1 and 2 are the brothers of Estera Vargese, W/o deceased K C Vargese and Accused No. 3 is the son of the deceased. As the deceased K C Vargese was assaulting and torturing CW2 - Estera Vargese, the Accused No.1 to 3 with a common intention to murder K.C. Varghese, had a criminal conspiracy and attacked him with wooden sticks. A charge sheet has been filed against the accused at Uppinangady Police Station under Sections 61(2), 103(1) and 3(5) of the BNS. The independent witness, C.W.4 -Anish.M. S, saw these people at the time these three accused persons conspired, and the evidence of the accused clearly shows that the accused had conspired together and therefore, the present accused was a part of the

conspiracy. After committing the offence, while travelling with CW3, Accused No.1 has informed CW3 that, he along with Accused No.2 and 3 assaulted and committed murder of K C Vargese and said witness CW3 has also stated the same in his statement under Section 183 before Prl. Civil Judge & JMFC, which prima facie establishes the involvement of the above accused in the murder and therefore Accused No.2/Petitioner is not eligible for bail at this stage. The above accused is working at JMFC Court, Belthangady and despite being clearly aware of the law, he did not prevent the heinous act of murder committed by the Accused No.1 and 3, but along with his brother – Accused No.1 and his son-in-law – Accused No.3, he brutally attacked and murdered his sister's husband. His act has brought down the respect of the esteemed court in the eyes of the society. His act has also affected the respect of the court staff. The I O has drew seizure mahazar and also seized the Mobile phones and clothes from the accused persons and said mobile phones were sent for the FSL report. The FSL report and doctor's opinion is pending, which are likely to further confirm the presence of the accused persons at the spot, mutual contact and participation in the crime and as so, the case is pending for filing additional chargesheet against the Accused persons. The statements of the witnesses,

the medical report, the PM report and the seized properties have created strong prima facie evidence against the accused persons. As the Accused No.1 along with the other accused persons, assaulted the deceased K.C. Varghese in a manner that caused death, are found, it is confirmed that the deceased K.C. Varghese died as a result of the assault by the accused persons. Therefore, it is clear that all the accused persons were involved in the crime. The accused persons have committed a heinous act like murder for a trivial reason, without considering it as his own brother-in-law, and since the Accused No.1 to 3 were directly involved in the murder, it is apparent that these accused persons are a person of cruel nature without any hesitation. If at this stage, the petitioner/Accused No.2 is granted with bail, there is every possibility of the petitioner/Accused No.2 threatening the prosecution witnesses or they committing similar kind of offences and possibility of the petitioner/Accused No.2 absconding himself and fleeing away from justice cannot be ruled out. On these grounds, the learned Public Prosecutor prays for dismissing of the bail petition.

4. I have heard the arguments on both sides and perused the materials on record relied upon by both parties.

5. From the above facts following points arise for my consideration;

1. Whether the petitioner/Accused No.2 has made out sufficient grounds for grant of anticipatory bail as prayed for in the petition?

2. What Order?

6. My findings on the above points are as follows:

Point No. 1 :: In the affirmative

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

: REASONS :

7. **Point No.1:** Herein the Uppinangady Police Station has been registered against Accused No.2 as per Crime No.21/2026, for the offences punishable u/s 61(2)(a), 103(1) r/w section 3(5) of BNS, pending on the file of 1st additional Civil Judge & JMFC, Puttur. The accused is in Judicial custody since 14.02.2026.

8. The brief facts of the case is that, the deceased K.C. Varghese had married C.W.2, and since their marriage, he would come drunk, suspecting her over trivial matters and would physically and mentally torture her. When the children CW11, CW12 and the

Accused No.3 comes to the house, they were also mentally and physically tortured by the deceased K C Vargese over trivial matters. CW2 told these matters with her younger brothers Accused No.1 and 2, as such, Accused No.1 and 2 had enmity towards the deceased K.C. Varghese. On 08.02.2026, at about 3.30 pm, the Accused No.3 came to his father's house and gave pills with his children to give the same to his wife and by looking at this, as the deceased was drunk, he mistaken the said person as Accused No.1 and abused the CW2 in filthy language and also assaulted CW2. CW2 was admitted to Ashwini Hospital at Nelyadi and Accused No.1 and 2 came to the Ashwini Hospital, Nelyadi. After seeing the injuries of the accused No.2, the accused got angry and treated him and discharged her. On the same day, the Accused No.1 called his brother Accused No.2 to his house and thereafter, they told Accused No.3 to come near Koppa Maderi, Nelyadi, Kadaba Taluk and Accused No.1 to 3 had conspired to murder K.C. Varghese at around 10.30 pm on the Nelyadi-Alankaru road in Koppa Maderi. As part of the conspiracy, the Accused No.1 told with Accused No.3 to watch at outside. The Accused No.3 was standing and watching at outside at 11.30 P M, the Accused No.1 and 2 went to K.C. Varghese's house and took some wooden sticks from the pile of wood in the yard. The

accused No.1 has hit K.C. Varghese, who was lying on the bed in the bedroom, on the head, both hands and legs with the wooden stick. When the 2nd accused dragged K.C. Varghese down and said, "Don't let go, beat him and kill him." and when the accused No.1 hit the deceased again, he was seriously injured and fell on the ground. Later, K.C. Varghese was taken to the Puttur Government Hospital and he was succumbed to the injuries on 09.02.2026 at 00.56 hrs.

9. The learned counsel for the petitioner/Accused No.2 and the learned Public Prosecutor have argued as per their contentions taken in their respective petition and objections. I have carefully perused the contents of bail petition, documents produced along with it and objection filed by the learned Public Prosecutor.

10. In this case, the deceased is none other than brother-in-law of Accused No.1 and 2 and father of Accused No.3. Admittedly, there are no eye witnesses to the alleged incident. The case is based on circumstantial evidence. The only allegation about Accused No.2 is that, he has instigated Accused No.1 to assault the deceased. Whether he has instigated or not, its a matter of trial. Accused No.2 appeared on the basis of voluntary statements of Accused No.1. The materials and documents on record reveals that, in this

case investigation has already completed and charge sheet has been filed by the Investigation officer against the petitioner/accused No.2. The charge sheet and enclosure show that the I.O., has collected sufficient materials to send the accused persons for trial. I.O., has cited 55 witnesses in the charge sheet. As per the case of the prosecution, the accused is no more required for custodial interrogation since recovery, seizure, mahazar, etc is already over and charge sheet is filed. Further his pre-trial detention in J.C is no more required for the purpose of investigation. Therefore, the veracity of the allegations and the counter allegations of the parties could be appreciated only after the trial. The accused is law abiding citizen. The offence alleged against the petitioner is non bailable in nature and it is exclusively triable by this court. It is noticed that the petitioner is permanent resident of the address mentioned in the cause title. Hence, there is absolutely no chance of fleeing away from justice. He is ready to abide by any conditions and to offer sureties for release on bail. Hence, continuing the petitioner in judicial custody is not necessary. Under these circumstances, I hold that, the apprehension of the state could met with by imposing suitable conditions on the petitioner/accused No.2. Accordingly, I answer point No.1 in the **affirmative**.

11. **Point No.2:** For the foregoing reasons, I proceed to pass the following:-

: ORDER :

The bail application filed on behalf of the petitioner/accused No.2 Chacocha U/Section 483 of BNSS, is hereby allowed.

Accordingly, the accused No.2 is enlarged on bail subject to executing a personal bond for Rs.1,00,000/- (Rupees one Lakh) with two sureties (one of surety shall be a Government Servant) for the like sum with following conditions:-

- 1. The accused shall not threaten the prosecution witnesses or attempt to tamper prosecution evidence directly or indirectly.***
- 2.He shall attend the Court regularly on all hearing dates.***
- 3. He shall furnish his latest address proof to the Court.***
- 4. He shall not leave the district till the conclusion of the trial, without prior permission of the trial Court.***
- 5.He shall not involve in similar type of offences in future.***

***Violation of above conditions entails cancellation
of the bail.***

(Dictated to the stenographer directly on computer, typed by her corrected by me and then pronounced in the open court today the 19th day of June 2026).

(Sri. Sadananda Nagappa Naik)
V Addl. District and Sessions Judge,
D.K., Mangaluru, sitting at Puttur, D.K.