

KAKD010002142026



**IN THE COURT OF THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, KODAGU- MADIKERI.**

Present

Sri.Hosamani Pundalik

Principal District and Sessions Judge,
Kodagu-Madikeri.

Dated this the 6th day of March, 2026.

Crl.Misc.Case No.76/2026

Petitioners :

- 1) Sri Niyas,
S/o late Ibrahim,
Aged about 36 years,
Residing at Neerukolli,
Ibnivalavadi Village,
Madikeri Taluk,
Kodagu District.
- 2) Sri Sharukh,
S/o Yacoob,
Aged about 28 years,
Residing at Neerukolli,
Ibnivalavadi Village,
Madikeri Taluk,
Kodagu District.

(Repr. by Sri. D.D.Chengappa, Advocate)

/ Versus /

Respondent:-

The State of Karnataka,
By Madikeri Rural Police Station,
Madikeri, Kodagu District.

**(Repr. by learned Public Prosecutor,
Kodagu District)**

ORDER

This is a petition filed by the petitioners under section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in Crime No.31/2026 registered by Madikeri Rural Police Station, Madikeri, Kodagu District, for the offence punishable under section 22 of Narcotics Drugs and Psychotropic Substances Act 1985.

2. The case of the petitioners in brief is as under:

That the petitioners are innocent and they have not committed any offence as alleged against them. The police have falsely implicated the petitioners in this case with a malafide intention of harassing them to make unlawful gain. The petitioners are the sole

bread earning members of the family and they have have to look after their aged parents. The offence alleged against the petitioners is not punishable with death penalty or life imprisonment. The petitioners are ready to furnish surety and ready to abide by the conditions to be imposed by the Court and prayed to allow the petition for grant of regular bail in the interest of justice.

3. Per contra, it is contended by the learned Public Prosecutor by filing objection that the petition filed on behalf of the petitioners is not maintainable. As per the investigation and records prima-facie the petitioners have committed the offence alleged against them and 29.66 grams commercial quantity of MDMA were seized from the accused persons. As such, at this stage, if the petitioners are released on bail, they may tamper the prosecution witnesses and there is every chance of their jumping on bail and hence prayed to dismiss the petition.

4. Thereafter, I have heard the arguments advanced by the learned counsel for the petitioners and that of the learned Public Prosecutor for the State.

5. The points that would arise for my consideration in this case are as under:

1. Whether the petitioners are entitled for regular bail under section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 as sought for?

2. What Order?

6. My findings to the above points are as under:

Point No.1 : In the Negative,

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

REASONS

7. **Point No.1:** Sri.Santhosh R., Civil Police Constable, Madikeri Rural Police Station, Madikeri has lodged first information before the SHO, Madikeri Rural Police Station on 19.02.2026 at about 1-00 p.m., in Crime No.31/2026 for the offence punishable under

section 22 of Narcotics Drugs and Psychotropic Substances Act 1985 alleging that when he was on duty on 19.02.2026 at about 12.40 p.m., he received credible information regarding illegal possession and sale of MDMA, a narcotic drug by one Sajeer, Sharukh and another person by parking their Maruthi-800 Car bearing No.KA-03-MA-9147 and Auto Rikshaw bearing No.KA-12-B-4611 near the road leading towards Mekerri at Neerukolli of Kadagadalu Village and thereafter he lodged the first information and the raid was conducted by the investigating officer and the accused persons found in possession of 29.66 grams commercial quantity of MDMA and thereby, the accused persons have committed the offence punishable under section 22 of Narcotics Drugs and Psychotropic Substances Act 1985.

8. The learned counsel for the petitioner submitted that the petitioners are innocent and they have not committed any offence as alleged against

them. The police have falsely implicated the petitioners in this case with a malafide intention of harassing them to make unlawful gain. The petitioners are the sole bread earning members of the family and they have have to look after their aged parents. The offence alleged against the petitioners is not punishable with death penalty or life imprisonment. The petitioners are ready to furnish surety and ready to abide by the conditions to be imposed by the Court and prayed to allow the petition for grant of regular bail in the interest of justice.

9. Per contra, it is contended by the learned Public Prosecutor by filing objection that the petition filed on behalf of the petitioners is not maintainable. As per the investigation and records prima-facie the petitioners have committed the offence alleged against them and 29.66 grams commercial quantity of MDMA were seized from the accused persons. As such, at this stage, if the petitioners are released on bail,

they may tamper the prosecution witnesses and there is every chance of their jumping on bail and hence prayed to dismiss the petition.

10. It is well settled law that, at the time of deciding the bail petition, the Court should look at prima-facie material and should not go into merits of the case by appreciation of evidence. It is also well settled principles of law that, Court should avoid elaborate discussion on merits while dealing with an application for bail. While dealing with an application under Section 439 of Cr.P.C, the Court cannot go into details of evidence to find out whether the evidence will be sufficient in establishing the guilt of the accused. The decision reported in **(2020) 2 SCC 743 in case of Myakala Dharmarajam and others Vs. State of Telangana** and another. Wherein the Hon'ble Supreme Court of India held that "The factors to be considered while granting bail have been held by this Court to be the gravity of the crime, the character of

the evidence, position and status of the accused with reference to the victim and witnesses, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of his tampering with the evidence and witnesses, and obstructing the course of justice, etc. Each criminal case presents its own peculiar factual scenario and, therefore, certain grounds peculiar to a particular case may have to be taken into account by the Court. The Court has to only opine as to whether there is prima facie case against the accused. For the purpose of bail, the Court must not undertake meticulous examination of the evidence collected by the Police and comment on the same. In another decision reported in the case of **State of Uttar Pradesh through CBI Vs Amarmani Tripathi**, reported in **(2005) 8 SCC 21**, wherein the Hon'ble Supreme Court held that: It is well settled principles of law that matters to be considered in an application for bail are (i) Whether there is any prima facie or

reasonable ground to believe that the accused had committed the offence; (ii) Nature and gravity of the charge; (iii) Severity of the punishment in the event of conviction; (iv) Danger of the accused absconding or fleeing, if released on bail; (v) Character, behavior, means, position and standing of the accused; (vi) Likelihood of the offence being repeated; (vii) Reasonable apprehension of the witnesses being tampered with and (viii) Danger, of course, of justice being thwarted by grant of bail. The another decision reported in **(2016) 15 SCC 422** in the case of **Neeru Yadav Vs State of Uttar Pradesh**, the Hon'ble Supreme Court held that :

Para No.13 : We will be failing in our duty if we do not take note of the concept of liberty and its curtailment by law. It is an established fact that a crime though committed against an individual, in all cases it does not retain an individual character. It, on occasions and in certain offences, accentuates and causes harm to the Society. The victim may be an

individual, but in the ultimate eventuate, it is the society which is the victim. A crime as is understood, creates a dent in the law and order situation. In a civilized Society, a crime disturbs orderliness. It affects the peaceful life of the Society. An individual can enjoy his liberty which is definitely of paramount value but he cannot be a law unto himself. He cannot cause harm to others. He cannot be a nuisance to the collective. He cannot be a terror to the Society and that is why Edmund Burke, the great English thinker, almost two centuries and a decade back eloquently spoke thus.

11. From the perusal of the materials available on record, I am of the considered opinion that there is prima-facie and reasonable ground at this stage for believing that the petitioners have committed the offence punishable under section 22 of NDPS Act which is heinous in nature and against the society at large. The accused persons were found in possession of total 29.66 grams commercial quantity of MDMA, a narcotic drug. There are sufficient materials available

on record to connect the accused persons with the alleged crime and prima facie shows the involvement of the petitioners in the crime. The decision reported in **2023 SCC Online S.C.870 in Crl.A.No.2078/2023 Dated:24.7.2023, in the case of Rohit Bishnoi Versus State of Rajasthan,** wherein the Hon'ble Supreme Court of India held that "the court deciding a bail application cannot completely divorce its decision from material aspects of the case such as the allegations made against the accused, severity of the punishment if the allegations are proved beyond reasonable doubt and would result in a conviction reasonable apprehension of the witnesses being influenced by the accused tampering with the evidence, criminal antecedent of the accused and prima-facie satisfaction of the court in support of the charge sheet against the accused, the proper exercise of discretionary jurisdiction/disposal of bail application held order granting bail liable to be set aside if passed in a casual

and cryptic manner de hors reasoning. Accordingly bail granted to the accused set-aside. In another decision reported in **2004(7) SCC 528 in the case of Kalyanchandra Sarkar Versus Rajesh Ranjan @ Pappu Yadav**, wherein the Hon'ble Supreme Court of India held that mere the fact that the accused has undergone certain period of incarceration by itself would not entitle the accused being enlarged on bail and further held that the grant of bail on the grounds that the accused had been in custody for a period of 3 ½ years, held not justified where gravity of the offence alleged was severe and serious allegations of tampering with the witnesses made against the accused. In another decision reported in **2007(1) SCC 242 in the case of Chenna Boyanna Krishna Yadav Versus State of Maharashtra** wherein the Hon'ble Supreme Court of India observed that; incarceration and delay in conclusion of trial are not sufficient to enlarge the petitioner on bail singly or conjointly when

other materials are available to establish strong prima facie case against the accused.

12. It is pertinent note that if we carefully appreciate all these facts, it would clearly indicate that the petitioners have involved in the present NDPS case and total 29.66 grams commercial quantity of MDMA, a narcotic drug was seized from the petitioners and other accused person. It is pertinent to note that the offence alleged against the petitioners clearly indicates that the petitioners have no apprehension of law. Such being the facts, it is not safe to release the petitioners on bail. As such, the allegations are very grave, heinous and against the Society at large.

13. It is pertinent to note that considering the nature of accusations against petitioners, nature of evidence in support thereof, reasonable apprehension of witnesses being tampered with and the larger interest of the public and State, I am of the considered opinion that the petitioners are not entitled for bail. In

case of grant of bail to the petitioners, chances of petitioners causing threat to the prosecution witnesses and chances of their abscondance cannot be ruled out. Considering the gravity and seriousness of the offence, this court is of the considered view that the petitioners are not entitled for bail.

14. It is pertinent to note that the offence alleged against the petitioners clearly indicates that the petitioners have no apprehension of law. Such being the facts, it is not safe to release the petitioners on bail at this stage. As such, having regard to all these facts and circumstances, I am of the view that, there are no reasonable and sufficient grounds which warrant this court to enlarge the petitioners on regular bail at this stage. Hence, the bail petition deserves to be rejected. Accordingly, I answered the **point No.1 for consideration in the Negative.**

15. **Point No.2:** In view of my finding on the above point, I proceed to pass the following:-

ORDER

The petition filed by the petitioners under section 483 of BNSS, 2023 is rejected.

File be consigned to Record room.

(Dictated to the Steno-I directly on the computer, transcribed by her, then corrected, signed and then pronounced by me in the open Court, this the **6th day of March, 2026**).

Sd/- xxx

(Hosamani Pundalik)

Principal District & Sessions Judge,
Kodagu-Madikeri.