



**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 10th day of March, 2026.

Crl.Misc.Case No.83/2026

Petitioner :

Sri Nafi P.M.,
S/o Mohammed P.M.,
Aged 19 years,
R/o Indiranagar, Napoklu,
Madikeri Taluk,
Kodagu District.

**(Represented by Sri.A.G.Giri,
Advocate.)**

/ Versus /

Respondent:-

The State of Karnataka,
By Napoklu Police Station,
Napoklu, Kodagu District.

**(Represented by learned Public
Prosecutor, Kodagu District)**

ORDER

This is a petition filed by the petitioner under section
483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (Section

439 of Cr.P.C.) for grant of regular bail in Crime No.25/2026 registered by Napoklu Police Station, Napoklu, Kodagu District, for the offences punishable under section 109, 115(2), 118(1), 351(2), 351(3) and 352 read with section 3(5) of Bharatiya Nyaya Sanhita, 2023.

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

That the petitioner is innocent and he has not committed any offence alleged against him and he has been falsely implicated by the respondent-police. The petitioner is a respectable person in the society. He is the only bread earning member of the family. There is no prima facie case against the petitioner. The petitioner is 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 petitioner is not maintainable. As per the investigation and records prima-facie the petitioner has committed the offences alleged against him. As such, at this stage, if the petitioner is released on bail, he may tamper the prosecution witnesses, he may commit similar

offence and there is every chance of the petitioner jumping on bail, hence prayed to dismiss the petition.

4. Thereafter, I have heard the arguments advanced by the learned counsel for the petitioner 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 petitioner is 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 Affirmative,

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

REASONS

7. **Point No.1**: One Sri.Karavanda Lava Nanaiah, resident of Doddapulikutu village, Madikeri Taluk has lodged first information before the SHO, Napoklu Police Station on 27.02.2026 at about 17.00 hours, in Crime No.25/2026 alleging that on 27.02.2026 at about 4.00 p.m., he had gone to the shop to purchase the provisions

and at that time, his villager Gowtham also came to the said shop in his vehicle bearing No.KA-12-C-1055 by tying the “Bhagavath Flag” to the vehicle. At that time, the first informant enquired with Gowtham regarding flag, for which Gowtham replied that he came for campaigning in respect of “Hindu Sangama Programme” to be held on the next day at Ballamavati Village. At that time, all the accused in furtherance of their common intention, the accused No.1 came by holding iron rod and shouted as to why he parked his vehicle tied with the flag and assaulted to the head of Gowtham with iron rod, as a result Gowtham sustained grievous injury and the accused No.2 has assaulted Gowtham with base-ball bat to his hand, accused No.3 has assaulted Gowtham and the accused No.4 has abused Gowtham in filthy language and thereby the accused persons have committed the offences punishable under section 109, 115(2), 118(1), 351(2), 351(3) and 352 read with section 3(5) of Bharatiya Nyaya Sanhita, 2023.

8. The learned counsel for the petitioners submitted that the That the petitioner is innocent and he has not committed any offence alleged against him and he has been falsely implicated by the respondent-police. The

petitioner is a respectable person in the society. He is the only bread earning member of the family. There is no prima facie case against the petitioner. The petitioner is 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 petitioner is not maintainable. As per the investigation and records prima-facie the petitioner has committed the offences alleged against him. As such, at this stage, if the petitioner is released on bail, he may tamper the prosecution witnesses, he may commit similar offence and there is every chance of the petitioner jumping on bail, hence prayed to dismiss the petition.

10. It is well settled law that section 483 of B.N.S.S., 2023 (439 of Cr.P.C.,) gives an unfettered discretion to the Hon'ble High Court or Court of Session to admit an accused person to bail, but that discretion must be exercised judicially. The power of the Hon'ble High Court and of a Court of Session to grant bail is not fettered by the restrictions contained in section 480 of B.N.S.S., 2023

(437 of Cr.P.C.). In every case, it is the cumulative effect of all the combined circumstances that must weigh with the Court and those considerations are far too numerous to be classified or catalogued exhaustively. In exercising its discretion under this section, the Hon'ble High Court need not confine its attention to the question whether the prisoner is or is not likely to abscond, as other circumstances may also affect the question of granting bail to persons accused of having committed crimes of a grave and serious nature. The principles underlying section 480 of B.N.S.S.,2023 (Section 437 of Cr.P.C.) are to be kept in view. The previous conviction of an accused for a heinous crime punishable with imprisonment for life, his involvement in other crimes and the quantum for punishment for the offences in which the applicant is seeking bail are all relevant factors to which, the Court should consciously advert while taking a decision in the matter of enlargement on bail. The Courts must not be too liberal in granting bail particularly when bail is asked for with regard to a serious crime like murder.

11. It is pertinent to note that bail is not be withheld merely as a punishment, and the requirements as to bail are merely to secure the attendance of the accused at the

trial. The test is to be applied by reference to the following considerations amongst others; (1) the nature of the accusation; (2) the nature of the evidence in support of the accusation; (3) the severity of the punishment which conviction will entail; (4) the character of the sureties, that is to say, whether they are independent or indemnified by the accused; (5) the character and the behaviour of the accused. Any allegation that the accused is tampering or attempting to tamper with witnesses and thereby obstructing the course of justice would be a very cogent ground for refusing bail. The 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".

12. 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 documentation of merits while dealing with an application for bail. While dealing with an application under section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (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.

13. It is pertinent to note that though the alleged offences are non bailable, but not punishable with death or imprisonment for life. Though it is stated in the objection that, if the petitioner is released on bail, he may abscond and tamper the witnesses, but it was urged on behalf of the petitioner that he is ready to furnish surety and also undertakes to abide by the conditions that may be imposed by this Court, therefore, there is no chance of his absconding. The apprehension of the prosecution may be dispensed with by imposing suitable conditions. In view of

the facts and circumstance of the case, I am of the view that, the petitioner has made out reasonable and sufficient grounds which warrant this Court to enlarge the petitioner on regular bail at this stage. Hence, the bail petition deserves to be allowed. Accordingly, I answered the **point No.1 for consideration in the Affirmative.**

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

ORDER

The petition filed by the petitioner under section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 is allowed.

The petitioner is ordered to be released on bail in Crime No.25/2026 of Napoklu Police Station, Napoklu on his executing personal bond for Rs.5,00,000/- with two sureties for the likesum to the satisfaction of jurisdictional Court/ Magistrate with following conditions:

- 1) The petitioner shall not tamper the witnesses by threats, inducement or otherwise.
- 2) The petitioner shall appear before the Court regularly without fail.

3) The petitioner shall not leave the jurisdiction of this Court without prior permission.

4) The petitioner shall not commit similar offence and shall not involve in any other offences.

5) The petitioner shall give his personal attendance before the SHO, Napoklu Police Station, on every Sunday between 10-00 a.m., to 5-00 p.m., or till filing of the charge sheet or three months, whichever is earlier.

6) The petitioner shall keep the jurisdictional Court informed in writing under acknowledgment about change in his address, if any.

If in case, the petitioner violates any of the conditions as stated above, the prosecution will be at liberty to seek cancellation of bail.

File be consigned to the Record Room.

(Dictated to the Steno-1 directly on the computer, transcribed by her, the same is corrected, signed and then pronounced by me in the open Court, this the **10th day of March, 2026**).

Sd/-xxx

(Hosamani Pundalik)

Principal District & Sessions Judge,
Kodagu-Madikeri.