

KAKD010002322026



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

Present

Sri.Hosamani Pundalik

Principal District and Sessions Judge,
Kodagu-Madikeri.

Dated this the 9th day of March, 2026.

Crl.Misc.No.86/2026

Petitioner :

Sri Jagadeesha B.D.,
S/o late Devappa Gowda B.S.,
Aged 69 years,
Agriculturist,
R/o Bembalur Village,
Kodlipet Hobli,
Somwarpet Taluk,
Kodagu District.

(Represented by Sri. D.Lingappa, Advocate)

/ Versus /

Respondent:-

The State of Karnataka,
By Department of Excise,
Somwarpet Sub Division,
Somwarpet, Kodagu District.

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

ORDER

This is a petition filed by the petitioner under section 482 of Bharatiya Nagarik Suraksha Sanhita (section 438 of Cr.P.C.) for grant of anticipatory bail in the event of his arrest by Sub Inspector of Excise, Somwarpet Sub-Division, Somwarpet in FIR (Crime) No.38/2025-2026/082851SIE/1714633 dated 31.01.2026 for the offences punishable under section 13(1)(a), 13(1)(f), 15, 32(1) and 43 of Karnataka Excise Act, 1965.

2. The case of the petitioner in brief is as under;

That the petitioner is innocent and he has been falsely implicated in the present case. The petitioner is the permanent resident of Bembaloor Village, having landed property and he has deep roots in the society. The petitioner has to look after his aged wife and children. There is no prima-facie case against the petitioner. The alleged offences are non-bailable. The

petitioner is ready to furnish surety and ready to abide by the conditions to be imposed by the Court. On these grounds, the petitioner prayed to grant anticipatory bail in the event of his arrest, in the interest of justice.

3. Per contra, it is contended by the learned Public Prosecutor by filing objection that the petition filed by the petitioner is not maintainable and liable to be dismissed. It is contended that as per the investigation and records, prima-facie the petitioner has committed offences alleged against him. The petitioner has not made out any ground for releasing him on bail. Hence, at this stage, if the petitioner is released on bail, he may tamper the prosecution witnesses and there is possibility of absconding of the petitioner and prayed for rejection of 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 anticipatory bail as provided under section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 as prayed 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:** On 30.01.2026 at about 6.30 p.m., one Laxmidevi S., the Excise Constable, Somwarpet Sub Division, Somwarpet was on patrolling duty at Bembaluru Village and at that time, she has received credible information regarding illegal preparation and storage of illicit liquor by the accused for the purpose of selling the same to the public at Bembaluru village

and immediately she has lodged complaint before the Sub Inspector of Excise and thereafter, the Sub Inspector of Excise along with staff and panchas went to the house of the accused and on search they found a plastic can containing 05 litres of illicit liquor, which was kept beneath the wash basin in the kitchen of the said house and thereby, the accused has committed offences punishable under section 13(1)(a), 13(1)(f), 15, 32(1) and 43 of Karnataka Excise Act, 1965.

8. The learned counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in the present case. The petitioner is the permanent resident of Bembaloor Village, having landed property and he has deep roots in the society. The petitioner has to look after his aged wife and children. There is no prima-facie case against the petitioner. The alleged offences are non-bailable. The petitioner is ready to furnish surety and ready to abide by the conditions to be imposed by the Court.

On these grounds, the petitioner prayed to grant anticipatory bail in the event of his arrest, in the interest of justice.

9. Per contra, it is contended by the learned Public Prosecutor by filing objection that the petition filed by the petitioner is not maintainable and liable to be dismissed. It is contended that as per the investigation and records, prima-facie the petitioner has committed offences alleged against him. The petitioner has not made out any ground for releasing him on bail. Hence, at this stage, if the petitioner is released on bail, he may tamper the prosecution witnesses and there is possibility of absconding of the petitioner and prayed for rejection of the petition.

10. It is pertinent to note that the decision reported in **AIR 2005 SC 3490** in a case between **State of U.P.through CBI Vs. Amarmani Tripathi**, wherein the the Hon'ble Supreme Court of India laid down the principles for grant of the bail ; a) Whether there is any

prima facie or reasonable ground to believe that the accused have committed the offence; b) Nature and gravity of accusation; c) Severity of the punishment in the event of conviction; d) Danger of the accused absconding or fleeing, if released on bail; e) Character, behavior, means, position and standing of the accused; f) Likelihood of the offence being repeated; g) reasonable apprehension of the witnesses being influenced; and h) Danger, of course, of justice being thwarted by grant of bail. It is pertinent to note that the decision reported in **(2011) 1 SCC 694** in the case of **Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others**, wherein the Hon'ble Supreme Court of India in para No.112 held as under:

“112. The following factors and parameters that need to be taken into consideration while dealing with anticipatory bail:

- a. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

- b. The antecedents of the applicant including the fact as to whether the accused previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
- c. The possibility of the applicant to flee from justice;
- d. The possibility of the accused's likelihood to repeat similar or other offences;
- e. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;
- f. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;
- g. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution, because over

implication in the cases is a matter of common knowledge and concern;

- h. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;
- i. The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
- j. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

11. It is pertinent to note that the offences alleged against the petitioner are non-bailable in

nature, but not punishable with death or imprisonment for life. The materials available on record indicate that the petitioner has reasons to believe that he may be arrested for the non-bailable offences alleged against him. It is well settled law that while granting anticipatory bail, the Court has to consider the nature and seriousness of the offence alleged against the petitioner. The apprehension of the prosecution may be dispensed with by imposing suitable conditions. Therefore, it can be said that the petitioner has made out prima-facie case for granting anticipatory bail. Hence, in view of the facts and circumstances of the case and nature of the offences, I am of the opinion that the petitioner is entitled for grant of anticipatory bail. Hence I answered the **point No.1 in the Affirmative.**

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

ORDER

The petition filed by the petitioner under section 482 of Bharatiya Nagarik Suraksha Sanhitha, 2023 (section 438 of Cr.P.C.) for grant of anticipatory bail, is allowed.

The petitioner is ordered to be released on bail in the event of his arrest by Sub-Inspector of Excise, Somwarpet Sub-Division, Somwarpet in FIR (Crime) No.38/2025-2026/082851SIE/1714633 dated 31.01.2026 on his execution of personal bond of Rs.5,00,000/- with one surety for the like sum, to the satisfaction of the Investigating Officer, subject to following conditions:-

1. The petitioner is directed to surrender before the Investigating Officer within 15 days from the date of this order.
2. The petitioner shall not tamper the witnesses by threats, inducement or otherwise.

3. The petitioner shall not commit similar offences and shall not involve in any other offences.

4. The petitioner shall keep the jurisdictional Court and Investigating Officer informed in writing under acknowledgment about change in his address, if any.

5. The petitioner shall co-operate with the investigation and shall appear before the investigating officer as and when called for, for the purpose of investigation.

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 Grade-I directly on the computer, transcribed by her, then corrected, signed and pronounced by me in the open Court, this the **9th day of March, 2026**).

Sd/-xxx

(Hosamani Pundalik)

Principal District & Sessions Judge,
Kodagu-Madikeri.