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IN THE COURT OF THE I-ADDL. DISTRICT & SESSIONS
JUDGE, AT MANDYA.

Dated this the 4th day of April, 2025.

: **PRESENT :**

Sri. SHIVAPRASAD K.B., B.Com., LL.B.,
I-Addl. District & Sessions Judge,
Mandya.

Crl. Misc. No.274/2026

PETITIONER : Siddeshgowda A.S,
S/o Shivakumar S
Aged about 20 years,
R/o Alurudoddi Village,
Madduru Taluk,
Mandya District.

**(Rep. by Sri.H.D.Ravindranath,
Advocate)**

V/S

RESPONDENT : State by Maddur town Police,
Mandya District.

[By learned Public Prosecutor]

**ORDER ON BAIL PETITION UNDER SEC.482 OF
BHARATIYA NAGARIKA SURAKSHA SANHITA 2023**

The petitioner has filed this bail petition under Section 482 of BNSS seeking for his release in the event of his arrest by the

respondent police in Crime No.80/2026 for offences punishable under section 110, 118(1), 189(2),352 of BNS.

2. The case of the petitioner is that he is innocent of the alleged offences. The allegations attributed are all concocted figments of the imagination of the complainant. The FIR registered against the unknown person and there is no grudge against the injured persons. There is no specific motive to the incident. There is no specific incriminating overt act attributed against the present petitioner. There is no specific role is referred in complaint to rope in the petitioner into this false case. The injured is already discharged from the hospital and his life is not under jeopardy. The accused No.2 and 3 are enlarged on regular bail in Crl. Misc. No.233/2026 by this Court. The principles of ground of parity is applicable to the present petitioner. The petitioner is the resident of Alurudoddi village, Maddur Taluk, the petitioner hails from respectable family, owning both movable and immovable properties. The petitioner has no criminal antecedents. He undertake to cooperate with the investigation and ready to abide the conditions that may be imposed by this Court. Thus, he prayed to release him on bail, in the event of his arrest by the respondent police.

3. The learned Public Prosecutor filed objection statement reiterating the complaint averments. It is contended that the petitioner has also committed the offences U/Sec. 110, 118(1), 189(2), 352 R/w 190 of BNS. The offence U/Sec. 118(1) is punishable with imprisonment which may extent to 3 years. While considering the bail petition the court is required to see the nature, gravity of the offence, chances of absconding of the

accused, manner of incident, conduct of the accused etc.,In the decision reported in (2011) 3 SCC (Crl.) 765 held that while considering the bail application in grave offences, the court has to consider the prima facie case, gravity of the offences and severity of punishment, chances of absconding of the accused, manner of the incident and antecedents of accused. If the petitioner is enlarged on bail, there is chance of tampering the prosecution evidences. Hence it is prayed to reject the bail petition.

4. Heard learned Public prosecutor and learned counsel for the petitioner. The learned PP submitted the IO report.

5. Upon hearing the learned Public Prosecutor and perusal of the material on record, the points that arise for my consideration are as under;

Point No.1 : Whether the anticipatory bail u/s 482 of BNS filed by the petitioner is maintainable?

Point No.2 : What order?

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

Point No.1 : In the Negative,

Point No.2 : As per final order,

for the following

REASONS

Point No.1 :

7. FIR in Crime No. 80 of 2026 dated 28.02.2026 came to be registered against 5 to 6 unknown on the statement of Mohan Heggade, son of Jagadeesha, recorded at Victoria Hospital, Bengaluru.

8. During investigation, after arrest of Nikhil Gowda and Rakesh, said persons arraigned as accused no.2 and 3. On their voluntary statement, Manoj arraigned as accused no.1 and also arraigned a child-in-conflict-with-law in the case.

9. As per the complaint averments, family of first informant attended the fare of their family deity Beereswarar Swami, Devaru, at Alur and at about 08.00 p.m., friends of first informant, Kaushik and Vishwas came to the said temple. First informant and his friends celebrated the birthday of Kaushik at the said temple and thereafter, they went in the motorcycle to bring the snacks to consume alcohol and after bringing the snacks, at about 10.10 p.m., while they sat near the Banni mantapa of the said temple, a unknown person came to the spot. and picked up quarrel for reckless riding of the motorcycle. The first informant and his friends sought apology. 5 to 10 minutes later, said unknown person came along with other persons, and picked up quarrel with the first informant and his friends. Further those persons, assaulted on the back of first informant with the base of coconut leaf and one of them, assaulted on his abdomen with knife. The prosecution alleged that accused no.1 to 3 and child in conflict with law are those assailants against the first informant.

10. I have considered the arguments of both sides and Perused the material on record. On careful perusal of the materials placed on record, the name of the name of petitioner does not appear either in the FIR or complaint. It is well settled that registration of FIR is not the pre-condition to entertain the anticipatory bail petition. But, applicant must show his 'reasonable apprehension of arrest' on the non-bailable offenses to entertain his anticipatory bail petition.

11. The Constitution Bench of Hon'ble Apex Court in the decision reported in AIR 1980 SC 1632 (Gurubaksh Singh Sibbia V/s State of Panjab) held that ;

“35. Sec. 438(1) of the Code lays down a condition which has to be satisfied before anticipatory bail can be granted. The applicant must show that he has “reason to believe” that he may be arrested for a non-bailable offence. The use of the expression “reason to believe” shows that the belief that the applicant may be so arrested must be founded on reasonable grounds. Mere 'fear' is not 'belief', for which reason it is not enough for the applicant to show that he has some sort of a vague apprehension that someone is going to make an accusation against him, in pursuance of which he may be arrested. The grounds on which the belief of the applicant is based that he may be arrested for a non-bailable offence, must be capable of being examined by the court objectively, because it is then alone that the court can determine whether the applicant has reason to believe that he may be so arrested. Section 438(1), therefore, cannot be invoked on the basis of vague and general allegations, as if to arm oneself in perpetuity against a possible arrest. Otherwise, the number of applications for anticipatory bail will be as large as, at any rate, the adult populace. Anticipatory bail is a device to secure the individual's liberty; it is neither a passport to the commission of crimes nor a shield against any and all kinds of accusation, likely or unlikely.

36. Secondly, if an application for anticipatory bail is made to the High Court or the Court of Session it must apply its own mind to the question and decide whether a case has been made out for granting such relief. It cannot leave the question for the decision of the Magistrate concerned under Section 437 of the Code, as and when an occasion arises. Such a course will defeat the very object of Section 438.

37. Thirdly, the filing of a First Information Report is not a condition precedent to the exercise of the

power under Section 438. The imminence of a likely to arrest founded on a reasonable belief can be shown to exist even if an F.I.R. is not yet filed.

38. Fourthly, anticipatory bail can be granted even after an FIR is filed, so long as the applicant has not been arrested.

39. Fifthly, the provisions of Section 438 cannot be invoked after the arrest of the accused. The grant of "anticipatory bail" to an accused who is under arrest involves a contradiction in terms, in so far as the offence or offences for which he is arrested, are concerned. After arrest, the accused must seek his remedy under Section 437 or Section 439 of the Code, if he wants to be released on bail in respect of the offence or offences for which he is arrested.

40. We have said that there is one proposition formulated by the High Court with which we are inclined to agree. That is proposition no. (2). We agree that a blanket order of anticipatory bail should not generally be passed. This flows from the very language of the section which, as discussed above, requires the applicant to show that he has "reason to believe" that he may be arrested. A belief can be said to be founded on reasonable grounds only if there is something tangible to go by on the basis of which it can be said that the applicant's apprehension that he may be arrested is genuine. That is why, normally, a direction should not issue under Section 438(1) to the effect that the applicant shall be released on bail "whenever arrested for whichever offence whatsoever." That is what is meant by a 'blanket order' of anticipatory bail, an order which served as a blanket to cover or protect any and every kind of allegedly unlawful activity, in fact any eventuality, likely or unlikely regarding which, no concrete information can possibly be had. The rationale of a direction under Section 438(1) is the belief of the applicant founded on reasonable grounds that he may be arrested for a non-bailable offence. It is unrealistic to expect the applicant to draw up his

application with the meticulousness of a pleading in a civil case and such is not requirement of the section. But specific events and facts must be disclosed by the applicant in order to enable the court to judge of the reasonableness of this belief, the existence of which is the sine qua non of the exercise of power conferred by the section”.

12. Of course, the person who seeks for the anticipatory bail entitle for the presumption of innocence and the grant of bail is rule. To entertain the anticipatory bail petition, the lodging of the FIR is not a pre-condition. However, as enunciated by the Hon'ble Supreme court in the above said decision of Gurubaksh Singh Sibbia V/s State of Punjab, mere fear is not belief. An anticipatory bail petition cannot be invoked on the basis of general allegations. A belief can be said to be founded on the reasonable grounds only if something tangible basis and it can be said that the applicants apprehension that may be arrested is genuine. There must be specific events and facts must be disclosed by the applicants in order to evaluate the reasonableness of belief of petitioner.

13. In the instant case, the accused no.1 to 3 are arrested and child-in-conflict-with-law apprehended by the respondent police. However, the records produced do not show any allegations against the petitioner. On perusal of the petition averments and documents produced, there is no specific events to conclude the reasonableness of the apprehension of arrest of the petitioner.

14. During course of arguments, the learned counsel for the petitioner submitted that the police are visiting his house and therefore, there is apprehension of his arrest. But, there is no

specific date, time with regard to the alleged visit of the police. Thus, there is no material to conclude that the petitioner may be arrested for the non-bailable offences punishable under section 110, 118(1), 189(2), 352 r/w Sec.190 of BNS. As there is no material to show the apprehension of arrest for non bailable offences, the anticipatory bail petition filed by the petitioner can not be entertained and the petition liable to be dismissed. Hence, I hold the point no.1 is in the **Negative**.

POINT NO.2:

15. In view of my above findings, I proceed to pass the following:

ORDER

The petition filed u/s-482 of BNSS by the petitioner named Siddesh Gowda A.S. S/o Shivakumar S., is **dismissed as not maintainable**.

(Dictated to the STENOGRAPHER, Transcript computerized by her, SCRIPT corrected, signed and then pronounced by me in the open Court on this the 4th day of April – 2026)

(SHIVAPRASAD K.B.)

I Addl. District & Sessions Judge,
Mandya.

