

KAMS010022432026



Crl. Misc.464/2026

KAMS010022442026



Crl. Misc.465/2026

KAMS010024212026



Crl. Misc.491/2026

KAMS010024222026



Crl. Misc.492/2026

KAMS010024232026



Crl. Misc.493/2026

KAMS010024242026



Crl. Misc.494/2026

KAMS010024252026



Crl. Misc.495/2026

KAMS010025912026



Crl. Misc.524/2026

KAMS010026372026



Crl. Misc.537/2026

**IN THE COURT OF THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE AT MYSURU**

Dated this the 10th day of June, 2026

PRESENT

Smt. Usharani, B.A.(Law), LL.B.,
Principal District & Sessions Judge,
Mysuru.

Crl. Misc.No.464 of 2026

C/W

465, 491, 492, 493, 494, 495,
524 and 537 of 2026

**Petitioner in Crl.
Misc.464/2026:**

Bittappa Nagappa Tharihala,
Aged about 45 years,
S/o. Nagappa Gangappa Tharihala,
R/o. D.No.414, Naika Galli,
Piranavaadi Post,
Hunchanatti Village,
Belagavi Taluk and District.

(Accused No.23)

**Petitioner in Crl.
Misc.465/2026:**

Prathima A N.,
Aged about 41 years,
W/o. Satheesh,
R/o. Subhash Nagara,
2nd Cross, Near Siddeshwara School,
Sagara Taluk, Shivamogga-577401.

(Accused No.20)

**Petitioner in Crl.
Misc.491/2026:**

Jagadisha,
Aged about 39 years,
S/o. Late CP Rajan and Laxmi,
R/o. 2-228, Shivamogga Road,
Near Annapoorna Guest House,
Balagadde, Kollur,
Baindoor Taluk, Udupi-576220.

(Accused No.18)

**Petitioner in Crl.
Misc.492/2026:**

Shashank C.G.,
S/o Girisha,
Aged about 33 years,
R/o # 119, Byatravalli,
Herur Village and Post,
Koppa Taluk,
Chikkamagalur-577118.

(Accused No.15)

**Petitioner in Crl.
Misc.493/2026:**

Anantha Nagoji Savanth,
Aged about 36 years,
S/o Late Nagoji Shat Kuppa Savath,
R/o. D.No.184,
Kusumalli Lakshmi Galli,
Khanapura Taluk, Belagavi District.

(Accused No.22)

**Petitioner in Crl.
Misc.494/2026:**

Pavan Maruti Gayakwad,
Aged about 33 years,
S/o. Maruti Genappa Gayakwad,
R/o. Kusumalli, Khanapura Taluk,
Belagavi District.

(Accused No.21)

**Petitioner in Crl.
Misc.495/2026:**

Mohan Chandra,
Aged about 29 years,
S/o. Vasu Shetty,
R/o. Alangaru, Moodu Mane,
Nadsalu Village, Kapu Taluk,
Udupi.

(Accused No.16)

**Petitioner in Crl.
Misc.524/2026:**

Naveen Kumar M
Aged about 29 years,
S/o. Manjappa,
R/o. #11, Yalavarasi,
Yalavarasi Village and Sagar Post,
Sagara Taluk,
Shivamogga-577 401.

(Accused No.19)

**Petitioner in Crl.
Misc.537/2026:**

Sri Atmananda @ Atmananda
Poojar, S/o. Prasad Poojar,
Aged about 34 years,
Doopadakatte, Nitte Village,

Karkala Taluk,
Udupi District-574110.

(Accused No.17)

**(By Sri Mahesh Kaje, Advocate for
accused No.15, 16, 18 to 23, Sri
Chethan Kumar N S, Advocate for
accused No. 17)**

Vs.

**Respondent in all
the cases:**

The State by SHO,
Bantwala Rural Police.
Represented by Public Prosecutor,
Mysuru

**[By learned Spl.Public
Prosecutor].**

COMMON ORDERS

The bail petitions have been filed by the petitioners seeking anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short) in Special Case No.71/2026 (Crime No.54/2025) of respondent Police Station, registered for the offences punishable under Sections 103(1), 109(1), 118(1), 118(2), 61(2)(a), 238(a), 238(b), 249(a) R/W 3[5] of BNS, 2023,

Section 25(1)(a) of Indian Arms Act and Section 3(1)(i), (ii), 3(2), 3(3), 3(4) of the Karnataka Control of Organized Crimes Act, 2000.

2. For the sake of convenience, all the petitions are clubbed in order to pass common order.

3. The brief facts of the case are that:

F.I.R. has been registered on 27.5.2025 for the offences punishable under Section 191[1], 191[2], 191[3], 118[1], 118[2], 109, 103 R/W 190 of BNS, 2023 based on the complaint of one Mohd. Nissaar. It was alleged in the complaint that on receipt of information over phone, regarding assault on Rehman @ Abdul Rehman and Kalandar Shafi at Kuriyala village, Irakodi with talwar, he went there and found Rehman in a pool of blood with grievous injuries and Kalandar Shafi next to him with grievous injuries. Both were not in a position to speak. Immediately he took Kalandar Shafi in an ambulance to

Mangalore Highland Hospital and on the way to hospital, Kalandar Shafi revealed that on 27.5.2025 during noon, Abdul Rehman after loading sand to his pick up vehicle bearing registration No. KA-19-AE-1477 from the river situated near the house of Irakodi Rajeev and when he was unloading the same at the house of Erakodi Rajeev, group of 15 persons armed with deadly weapons i.e., talwar, knife and rod, dragged the driver Abdul Rehman from the driver seat and assaulted him. When Kalandar Shafi went to rescue him, they have also assaulted him. Thereafter those people escaped by seeing others coming to the spot. Abdul Rehman died due to grievous injuries and Kalandar Shafi was taking treatment at ICU as inpatient. Thereafter, charge-sheet has been filed on 28.8.2025 for the offences punishable under Section 103[1], 109[1], 118[1], 118[2], 61[2][a], 238[a], 249[a] R/W 3[5] of BNS, 2023, Section 25[1][a] of Indian Arms Act, 1959. The Inspector General of Police, Western Range, Mangalore, by considering the

number of criminal cases registered against these accused persons punishable with imprisonment of 3 years and more within a period of 10 years, granted approval to invoke Section 3 of KCOC Act and permitted Dy.S.P. Bantwal Sub-Division to investigate the matter. Considering the same, case was transferred and submitted to Principal District and Sessions Court, Mysuru as it is a Special Court to try the offences punishable under KCOC Act. After due investigation, charge-sheet has been filed for offences punishable 103(1), 109(1), 118(1), 118(2), 61(2)(a), 238(a), 238(b), 249(a) R/W 3[5] of BNS, 2023, Section 25(1)(a) of Indian Arms Act and Section 3(1)(i), (ii), 3(2), 3(3), 3(4) of the Karnataka Control of Organized Crimes Act, 2000.

4. The accused No.15 to 23/petitioners have filed separate Crl. Misc. Petitions seeking bail on the same grounds, which are as follows:-

Accused No.15 to 23 are innocent of the alleged offences and they are falsely implicated in this case. There are no prima-facie case against them and no ingredients to bring home the offence punishable under Section 249(A) r/w 3(5) of BNS and Section 3(3) of KCOC Act. Further there is no material against accused No.15 to 23 with regard to commission of conspiracy and harboring and also with regard to knowledge about this incident. Sanction accorded by the competent authority is defective. No cases are pending against these accused and hence accused have not committed any offence, which attract the provisions of Organized Crime Syndicate. Hence, refusal to grant bail may result in pre-trial conviction, which is opposed to settled principles of law. Accused have no criminal antecedents and since charge sheet has already been filed, they are not required for custodial interrogation. Accused are law abiding citizens and they are the sole bread earning members in the family and hence, there is no chance of

accused absconding. Alleged offences are not punishable with death or imprisonment for life. These accused are ready to furnish surety and abide by the conditions imposed by the Court. Hence, prayed to grant them anticipatory bail.

5. The learned Special Public Prosecutor has filed separate objections to all the criminal miscellaneous petitions except to Crl.Mis.524 and 537 of 2026 and the learned Public Prosecutor has also filed separate objections to all the criminal miscellaneous petitions. The common objections raised in those criminal miscellaneous petitions are as follows:

Section 22(3) of KCOC Act, creates statutory embargo pertaining to pre-arrest bail and hence present bail applications are not maintainable. These accused are absconding and evading arrest. Section 22(4)(a)(b) of KCOC Act is non-abstante clause and it also creates reverse burden. These accused have failed to place materials

pertaining to the satisfaction of Court that there is no reasonable grounds to believe that they are not guilty of such offence. These Accused are the members of Syndicate called 'Bajaranga Dala'. Hence custodial interrogation of these accused are required in order to collect information regarding involvement of other members of organized crime syndicate in the commission of an offence. FIR is not encyclopedia to include all the details and names of the accused persons. While considering the bail application, nature of the offence has to be considered. These accused have got political power and hence, there are chances of accused persons fleeing away from clutches of law. The legality of the approval and sanction granted by the Authority cannot be questioned in this petition.

6. In addition to common objections raised above, the other objections raised in each objections are separately noted here below:

• **In Crl.Mis.No.492/2026 [Accused No.15] :**

Accused No.15 is identified as Hassana District Co-ordinator of Syndicate called 'Bajaranga Dala' and he has direct nexus with other members of an "organized crime syndicate". He is an active participant of organized crime syndicate. There are 6 cases registered as detailed below against accused No.15:

Sl. No.	Crime number	Police Station	Offences
1.	Cr.No.52/2018	Balehonooru Police Station	143, 144, 147, 148, 504, 323, 324, 341, 427 of IPC
2.	Cr.No.52/2020	Balehonooru Police Station	143, 144, 147, 148, 504, 323, 324, 307, R/w. 149 of IPC
3.	Cr.No.53/2020	Balehonooru Police Station	143, 144, 147, 148, 504, 506, 323, 326 R/w 149 of IPC
4.	Cr.No.1/2023	Jaipura Police Station	504, 506, 323 R/w 34 of IPC and Sec.3(1)(r)(s), 3(2)(va)SC/ST Act
5.	Cr.No.129/2024	Balehonooru Police Station	115(2), 189(2), 191(2), 191(3), 118(1), 351(2), 352

			R/w 190 of BNS
6.	Cr.No.220/2024	Chikkamangaluru Town Police Station	126, 189, 190, 285 of BNS

Accused No.15 had direct nexus with prime accused No.1, 3 and 14. He had helped accused No.1 and 3 to conceal themselves to evade their arrest.

• **In Crl.Misc.No. 495/2026 [Accused No.16] :**

There are 3 criminal cases against the petitioner/accused No.16, which are listed below:

Sl.No.	Crime number	Police Station	Offences
1.	Cr.No.20/2017	Padubidre Police Station	143, 144, 147, 148, 153[a], 295[a], 427 R/W 149 of IPC
2.	Cr.No.21/2027	Padubidre Police Station	143, 144, 147, 148, 353, 506 R/W 149 of IPC
3.	Cr.No.31/2018	Padubidre Police Station	143, 144, 147, 148, 341, 302 12[B] R/W 149 of IPC

Accused No.16 has got acquaintance with accused No.6 and 17. From 27.5.2025 to 28.5.2025, accused No.16 along with accused No.17 facilitated accused No.6, 9 to 13 at

Baragallu Gudde house No.7368 i.e., at the house of witness Sunanda Mouli. From 28.5.2025 till 30.5.2025, accused No. 16 facilitated aforesaid accused persons to conceal themselves. These facts substantiated in the statement witness Santhosha Shetty. Accused No.16 had also facilitated the residence at Tenkumane to accused No.9, 10, 11 and 13 on 7.6.2025. This fact has been substantiated in the statement of witness Satwik Shetty. Further accused No.16 along with accused No.1 provided four-wheeler to accused No.9 to 11 to travel from Belgaum to Padubidri. Further accused No.16 had constantly contacted accused No.9 over phone. These facts were confirmed in the voluntary statements recorded under Section 19 of KCOC Act of accused No.6, 9 to 13. Hence collecting some vital materials pertaining to individual act of this accused, custodial interrogation is necessary.

- **In Crl.Misc.No. 537/2026 [Accused No.17] :**

There are two criminal cases registered against accused No.17. This accused along with accused No.16 facilitated accused No.6, 9 to 13 for their residence and food. Hence taking Police custody of this accused, to further investigate as to his individual or collective act in the commission of Organised Crime Syndicate is necessary.

- **In Crl.Mis.No. 491/2026 [Accused No.18] :**

There are number of cases pending against petitioner/ accused No.18, who has facilitated residence at Kolluru to other accused and oftenly in contact with accused No.19 to make arrangements for the residence of other accused to conceal themselves. Further accused No. 18 has actively participated in the crime syndicate. Hence collecting some vital materials pertaining to individual and collective role of this accused in the commission of an offence, custodial interrogation is necessary.

- **In Crl.Mis.524/2026 [Accused No. 19]:**

Accused No.19 facilitated residence to accused No.13 Ranjith and made vehicle arrangements to witness Megharaj and accused No.20. There is one criminal case pending against this accused. Hence collecting some vital materials pertaining to individual and collective role of this accused in the commission of an offence, custodial interrogation is necessary.

- **In Crl.Mis.No.465/2026 [Accused No.20]:**

Accused No.20 has paid conveyance charges pertaining to accused No.6, 9 to 13 from Sagara to Belgavi and also made residential arrangements at Sangha Sadana Sagara on 1.6.2025. Further he has instructed accused No.19 to facilitate prime accused persons in this case. There is one criminal case pending against this accused. Hence collecting some vital materials pertaining to individual and

collective role of this accused in commission of an offence, custodial interrogation is necessary.

- **In Crl.Mis.No.494/2026 [Accused No. 21]:**

A case has been registered in Cr.No.398/2018 at Khanapura Police Station for the offences punishable under Section 143, 147, 148, 341, 363, 307, 323, 324, 427, 504, 506 R/W 149 of IPC and Section 2[A] KDPC Act and Section 3[1][r][s] and 3[2][v][a] of SC&ST Act against accused No.21. This accused has facilitated food, residence to accused No.6, 9 to 13 in his residence and it has been stated by the said accused persons in their voluntary statements. Hence collecting some vital materials pertaining to individual and collective role of this accused, custodial interrogation is necessary.

- **In Crl.Mis.No. 493/2026 [Accused No.22] :**

A case has been registered in Cr.No.398/2018 at Khanapura Police Station for the offences punishable under

Section 143, 147, 148, 341, 363, 307, 323, 324, 427, 504, 506 R/W 149 of IPC and Section 2[A] KDPC Act and Section 3[1][r][s] and 3[2][v][a] of SC&ST Act against accused No. 22. He has provided residence and food to accused No.6, 9 to 13 and also to accused No.21 and the same has been voluntarily deposed by those accused themselves. Hence collecting some vital materials pertaining to individual and collective role of this accused, custodial interrogation is necessary.

- **In Crl.Mis.No. 464/2026 [Accused No.23] :**

Accused No.23 facilitated residence and food to accused No.6, 9 to 13 and also residence to accused No.21. Hence collecting some vital materials pertaining to individual and collective role of accused No.22, custodial interrogation is necessary. Hence, prayed to reject the bail applications.

7. Heard the arguments of the learned Advocates for the petitioners/accused No.15 to 23 and the learned Public Prosecutor and also learned Spl. Public Prosecutor for the respondent.

8. The points arise for my consideration are as follows:

1) Whether the bail petitions filed by the petitioners/accused No.15 to 23 under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 deserves to be allowed?

2) What order?

9. My answers to the above points are as hereunder:

Point No.1: In the **negative**.

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

REASONS

10. **POINT NO.1**: The learned Advocates for accused No.15 to 23 have filed separate bail applications seeking anticipatory bail but have submitted same argument. It is

argued by learned advocates for accused that the allegations made against these accused persons are that they helped the different persons/accused at different circumstances. As argued by learned Spl. Public Prosecutor, there is bar under Section 22[3] of KCOC Act to grant anticipatory bail, but it is not absolute. In this regard, Hon'ble High Courts in identical cases held that, though there is bar, bail can be granted if there is no prima facie case against the accused persons. In this regard, learned Advocates drew the attention to orders of Hon'ble High Court of Karnataka in -

- Criminal Petitions No.200863/2024 between Revansiddappa @ Revansidda Talvar V/s. The State of Karnataka,
- Crl. Petition No.201333/2024 C/W Crl.P. No. 201415/2024 between Siddarama and 2 others V/s. The State, and

judgment of Hon'ble Supreme Court of India in W.P.
[C] No.1015/2018 between Prathvi Raj Chauhan
V/s. Union of India & others with W.P.[C] No.
1016/2018.

11. On the above point, the learned Spl. Public Prosecutor drew the attention to Section 22[3] of KCOC Act and order of Hon'ble High Court of Karnataka in **Crl.P.No.16384/2025 between Chandrashekar R @ Chandru v/s. State** and argued that there is bar under Section 22[3] of KCOC Act to grant anticipatory bail to the accused of an offence punishable under KCOC Act.

12. It is important to note here that in **Crl.P.200863/2024**, holding that KCOC Act does not attract against the petitioner therein, anticipatory bail was granted. In **Crl.P.201415/2024**, Hon'ble High Court of Karnataka observed while granting anticipatory bail to accused No.18 that he is a taxi driver and said to have

committed only bailable offences. In **W.P.No.1016/2018**, Section 18[A] of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act, 1989, was involved and it was observed that, if the complaint does not make out a prima facie case for applicability of the provisions of the Act of 1989, the bar created by Section 18 and 18A[i] shall not apply.

13. Hence it is clear that Court has to consider whether there is prima facie case against the accused before granting anticipatory bail, but in the latest judgment of Hon'ble High Court of Karnataka in Crl.P.No.16384/2025 furnished by learned Spl. Public Prosecutor, Hon'ble High Court by considering Section 22[3] of the KCOC Act, held that petition seeking anticipatory bail cannot be entertained if the offence alleged is under Section 3 of the KCOC Act.

14. Further, learned Advocate for the accused drew the attention to Section 249 of BNS and argued that, the

allegation is though under Section 249 of BNS, ingredients of said section attracts only if accused had intention to conceal a person who he knows or he has reason to believe to be an offender, but basic ingredients are since missing, these accused cannot be labeled as offender under KCOC Act. In this regard, learned Advocates drew the attention to the judgment of Hon'ble High Court of Judicature at Bombay in **Crl.Petition No.913/2019** dated 13.9.2029 between **Surjit Bhagathsingh Gambhir V/s State of Maharashtra** and drew the attention to para 13, 14 of the judgment wherein it was observed as follows:

"13. The essence of criminal law has been said to lie in the maxim - "actus non facit reum nisi mens sit rea ". There can be no crime without an evil mind and therefore the essence of an offence be it under the IPC or any other law for the time being in force, is the wrongful intent, without which an offence cannot be established. This examination of mental element or mens rea requisite for every crime, will have to be ascertained from the surrounding circumstances since the direct evidence of mens rea at times may not be

readily available. Mens rea referred to a person's knowledge and the concept was brought in the writings of English Author - Eugene J. Chesney who promoted the idea that the act itself does not make the person guilty of crime unless mind is also guilty. There is a vital difference between the individual who accidentally done something that turns into a crime and someone who sets out in his mind to do something to hurt either any person or his property. The mens rea is all about intent and the individual frame of mind when the crime is committed and this intent can be gathered from the surrounding circumstances.

14. The MCOCA is an enactment which contain special provisions for prevention and control of organized crime and the criminal activity by the organised crime syndicate or gang. The said Act is a special enactment which was brought on the statute book to deal with organised crimes which pose a serious threat to the Society and crossed the international boundaries when it was noted that the illegal wealth and black money generated by the organised crime being very huge, which has serious effect on the country's economy and in the State of Maharashtra, the existence of operation of organised criminal gang being noted, the need was felt to curb their activities and to achieve this purpose, the Maharashtra Act XXX of 1999 came to be enacted. The Petitioner is charged with Section 3(1)(i)(ii), 3(2), 3(4) and Section 4 of the said Act.

Section 3 of the said Act provides for punishment of organized crime and it reads thus: . . . "

Finally Hon'ble High Court of Bombay held that there are no definite materials contained in the charge-sheet to prosecute the petitioner under the MCOCA Act.

15. It is further argued by learned advocates for accused that allegation against accused No.20/Prathima Jogi is that she has provided vehicle and amount to the alleged accused persons, but unless prosecution shows that she had knowledge and intention, she cannot be dragged in as an accused in this case. Further as per charge-sheet accused No.21 to 23 have provided shelter to accused persons at house No.175 owned by CW-274/Maruti Genappa Gayakwad, the father of accused No.21, but these accused No.21 to 23 are not the owners of said house and had no knowledge of commission of an alleged offence by other accused persons. It is also the allegation that accused

No.23 had purchased cloths to other accused persons at the shop "G Stores Mens Wear", owned by Ganapathy Angolkar, but he had no mens rea. Unless prosecution shows that these accused had mens rea, anticipatory bail cannot be rejected. Initially, when first charge-sheet has been filed, there was no reference of these accused and only in the supplementary charge-sheet, the names of these accused were dragged in.

16. Per contra, learned Special Public Prosecutor has argued that SC&ST Act and KCOC Act are fundamentally distinct legislative. Primary intent of SC&ST Act is to uphold social justice, whereas KCOC Act has been enacted to maintain public order and state security. Hence, judgments submitted by learned Advocates for accused do not applicable to the present case.

17. Further, learned Special Public Prosecutor drew the attention to materials available on record and also to the

provision 113 of BNS and argued that, these accused persons have provided food, shelter and clothes after being aware of the fact that some accused persons are helping the offenders to evade the law. Further meeting of minds prior or after the offence can be gathered from the materials available, recoveries made and statements of independent witnesses recorded under Section 183 of BNSS.

18. It is also the argument of learned Special Public Prosecutor that 'Bajaranga Dala' is a Organised Crime Syndicate and these accused are the members of said syndicate and being members of said syndicate, they have assisted or facilitated the other accused persons. However, learned Advocates for accused have argued that Bajaranga Dala is a social organization and hence, it cannot be labeled as crime syndicate. It is important to note here that, unless sufficient materials are before the Court, at this

stage it is not proper to consider the said argument of learned Special Public Prosecutor and hold Bajaranga Dala as a crime syndicate. Hence, without discussing the said point, perused other available materials.

19. One more argument advanced by learned Advocates for the accused persons is that, taking cognizance and issuing NBW is no bar to grant anticipatory bail. In this regard, learned Advocates for the accused have submitted order of Hon'ble High Court of Karnataka in **Crl.Petition No.1983/2012** dated 8.6.2012 between **Sri H D Kumaraswamy V/s. State of Karnataka**, wherein allegation was made against accused is punishable under Sections 120-B, 406, 420, 463, 465, 468, 471 of IPC and Sections 13[1][d], 13[1][e] and 13[2] of Prevention of Corruption Act and Sections 3 and 4 of Karnataka Land [Restriction of Transfer] Act R/W Section 34 of I.P.C. In the

above judgment the Hon'ble High Court at para 26 held as follows:

"It is fairly well settled that, keeping an accused person in custody pending trial of a case is not as a measure of punishment, but it is only to see that his presence during the trial is secured easily and to prevent likelihood of tampering of evidences or threatening or inducement of the witnesses in any manner. If there is no likelihood of accused fleeing away from justice and his presence before the court during the trial is assured, and there is no likelihood of tampering of evidences in any manner, the detention of such accused person in custody, would not be warranted."

Opining so, Hon'ble Court has granted bail under different circumstances, wherein investigation of the case has been completed.

20. Further learned Advocates for the accused have submitted a citation reported in **C.R.M [A] 2976/2025** between **Asit Barik V/s. The Superintendent of Police**

dated 24.2.2026, wherein at para 3[7] and 12, the Hon'ble High Court discussed and held as follows

"The case at hand involves a gruesome murder that took place during the post poll violence of 2021. Therefore, it is an absolute imperative that the real truth comes out and the persons responsible for such horrendous murder are punished. However, the question of grant of anticipatory bail would depend on established principles including on what is the nature and quality of evidence prima facie available against a particular accused at that stage".

And has granted anticipatory bail to the accused.

21. The learned Advocate for the accused have also submitted one more Order in **Appeal [Crl.] 1250/2003, [arising out of SLP [Crl.] No. 2243/2003]** between **Bharat Chaudhary and another V/s. State of Bihar and another** dated 8.10.2003 of Hon'ble Supreme Court of India, wherein offence involved is under Section 504, 498A, 406 IPC, Section 3 and 4 of Dowry Prohibition Act. The

Hon'ble Apex Court held that, there is no restriction to grant bail in suitable cases by Hon'ble High Court or Sessions Court wherein charge-sheet has been filed or cognizance has been taken.

22. Contrary to that, learned Special Public Prosecutor submitted a citation reported in **2003 ALL MR [Cri] Journal 47** between **Dr. A Ebenezer V/s. State of Karnataka** in the judgment in **Crl.Petition No. 2806/2002** dated 5.8.2002, wherein Hon'ble Apex Court held that application under Section 438 could not be invoked once charge-sheet is filed.

Further, the learned Advocates for the accused have argued that in the case on hand, in the F.I.R. names of these accused do not find place and even in the first charge-sheet also, their names are missing and only in the second charge-sheet, their names were cited and F.I.R. has been registered on 27.5.2025. First charge-sheet has been filed on 28.8.2025 and the second charge-sheet has been filed on 19.2.2026. Further it

is stated by learned Advocates for the accused that investigation has since been completed, accused are not required for interrogation and have relied on the order in **Writ Petition No.1959/2021** between **Shabhana Parveen Inayatullah Shaikh V/s. The State of Maharashtra** dated. 13.8.2021, wherein at para 25, the Hon'ble Bombay High Court has held that:

“The upshot of aforesaid consideration is that we are prima facie satisfied that no case for invocation of stringent provisions under MCOC Act qua the petitioner is made out. In the context of the prelude, time and place of the occurrence and the role attributed to the petitioner, in our view, a prima facie case for grant of relief is made out. The petitioner is a woman. In the light of the nature of occurrence and the role attributed to the petitioner therein, the custodial interrogation of the petitioner is not warranted”.

23. But learned Special Public Prosecutor relied upon order in **2023 LiveLaw SC 283** [Crl.Appeal No. 957 of 2023 dated 10.4.2023 in **Central Bureau of investigation v/s. Vikas Mishra @ Vikash Mishra**], and argued that as per which, custodial interrogation if required cannot be denied.

24. In the Criminal Petition No.2806/2002 Hon'ble High Court has elaborately discussed and held that after filing of charge-sheet provisions of anticipatory bail would be totally irrelevant. But in Appeal [Cri].No.1250/2003 Hon'ble Supreme Court held as noted supra that Sessions Court as well as Hon'ble High Court has necessary power to grant anticipatory bail even when cognizance has been taken and charge-sheet has been filed provided the facts of the case require the Court to do so.

25. In the judgment in **Crl.Appeal of 2024** [Special Leave Petition [Cri] No. 7940/2023] between **Srikant Upadhyay and others V/s. State of Bihar and another**, produced by learned Special Public Prosecutor, it was discussed and held that:

“ ... power exercisable under Section 438 of Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his liberty.”

But accused in that case, moved bail cum surrender application before the Trial Court but withdrew the same fearing arrest. Hence no ground to appellants to contend that they were not absconding themselves from arrest or that they were not knowing that they were wanted in the Court of law. In the said judgment, at para 24, it was further discussed as follows:

“We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases.

At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant”.

26. Under these circumstances, the Court has to consider the latest order/judgment on the point of Hon'ble High Court or Hon'ble Supreme Court. It was already referred supra that in Crl.P.No.16384/2025 between Chandrashekar R @ Chandru v/s. State, Hon'ble High Court held that in view of bar under Section 22[3] of KCOC Act, Court cannot entertain anticipatory bail.

27. In the latest judgment of Hon'ble Apex Court in Crl.Appeal of 2024 [Special leave petition [Cri] No. 7940/2023 between Srikant Upadhyay and others V/s. State of Bihar and another], [noted supra] held that:

“... power exercisable under Section 438 of Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional

cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his liberty.”

In the above case, offence involved is under the provisions of IPC as well as Prevention of Witch [Daain] Practices Act, 1999 and not under KCOC Act. Moreover, provisions of Section 22[3] of KCOC Act was not discussed. No doubt in all the citations, judgments and orders produced by both the parties, it is made clear that anticipatory bail can be granted by the Courts even in exceptional circumstances if it appears suitable even after filing of the charge-sheet. But in case of offence involved under KCOC Act, there is a bar under Section 22[3] of the said Act and Hon'ble High Court of Karnataka in Crl.P.16384/2025 [noted supra] on the said ground, has rejected the anticipatory bail. Further available materials show that according to prosecution, they require these accused for further investigation of the case. In this regard note has been made in the second charge-sheet which is extracted below:

"ವಿ.ಸೂ: ಈ ಪ್ರಕರಣದಲ್ಲಿ ಇನ್ನೂ ತನಿಖೆ ಬಾಕಿಯಿದ್ದು, ಈಗಾಗಲೇ ದಸ್ತಗಿರಿ ಮಾಡಿ, ದೋಷಾರೋಪಣಾ ಪತ್ರದಲ್ಲಿ ನಮೂದಿಸಿದ ಆರೋಪಿಗಳಿಗೆ ತಲೆಮರಿಸಿಕೊಂಡಿದ್ದ ಸಮಯ ಆಶ್ರಯ ಹಾಗೂ ಹಣಕಾಸು ನೀಡಿದವರ ಕುರಿತು ತನಿಖೆ ಮುಂದುವರಿದಿದ್ದು, ತನಿಖೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ **FSL** ವರದಿಗಳು, **CDR & CAF** ವರದಿಗಳನ್ನು ಪಡೆದು ಪರಿಶೀಲಿಸಲು ಹಾಗೂ ಸಂಬಂಧಿಸಿದ ಮೊಬೈಲ್ ಕಂಪೆನಿಯ ನೋಡಲ್ ಅಧಿಕಾರಿಗಳಿಂದ ಕಲಂ: **63(4)** ಬಿ ಎಸ್ ಎ ರಂತೆ ದೃಢಪತ್ರ ಪಡೆದುಕೊಳ್ಳಲು ಬಾಕಿಯಿರುತ್ತದೆ. ಹಾಗೂ ಪ್ರಕರಣಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಸಾಕ್ಷ್ಯಾಧಾರಗಳನ್ನು ಕಲೆ ಹಾಕಿ ಲಭ್ಯ ಸಾಕ್ಷ್ಯಾಧಾರಗಳಡಿ ಹೆಚ್ಚುವರಿ ದಾಖಲಾತಿಗಳೊಂದಿಗೆ ಕಲಂ: **193(9) BNSS** ರಂತೆ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಮುಂದಕ್ಕೆ ಹೆಚ್ಚುವರಿ ದೋಷಾರೋಪಣಾ ಪತ್ರವನ್ನು ನಿವೇದಿಸಲಾಗುವುದು."

28. It is pertinent to note here Section 193[9] of the BNSS, which is reproduced here below:

"Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (3) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form as the State Government may, by rules, provide; and the provisions of sub-sections (3) to (8) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (3):

Provided that further investigation during the trial may be conducted with the permission of the Court trying the case and the same shall be completed within a period of ninety days which

may be extended with the permission of the Court”.

From the above, it is clear that till the commencement of trial, the Investigating Officer has entrusted with the power to forward the report to the Magistrate even after filing of the report under Section 193[3] to the Magistrate if he collects further evidence against the accused persons before commencement of the trial, but after commencement of the trial, if he continues investigation, he has to seek permission of the Court and investigation shall be completed within a period of 90 days and said period may be extended with the permission of the Court.

29. Under these circumstances, I opine that the petitioners/ accused No.15 to 23 are not entitled for anticipatory bail. Hence, point No.1 has been answered in the **negative**.

30. **POINT No.2:** For the reasons stated above, I proceed to pass the following:

ORDER

The bail petitions in Crl.Mis.No.464, 465, 491 to 495, 524 and 537 of 2026 filed by the petitioners under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 are hereby ***dismissed.***

Original order shall be kept in Crl.Mis.464/2026 and copy thereof in Crl.Mis. 465, 491 to 495, 524 and 537 of 2026.

[Dictated to tab, typed the same by the Stenographer Gr-I on Computer and after corrections, pronounced by me in open Court on this the **10th day of June, 2026.**]

[USHARANI],
Principal District & Sessions Judge,
Mysuru.