

KARC010010342026



Presented on : 07-03-2026
Registered on : 09-03-2026
Decided on : 26-03-2026
Duration : 19 Days.

**IN THE COURT OF II-ADDITIONAL DISTRICT AND
SESSIONS COURT, RAICHUR**

Dated this the 26th day of March, 2026

: PRESENT :

Shri Hattikal Prabhu S.

M.A., LL.M.

II-Addl. District & Sessions Judge, Raichur.

Crl. Misc. No.120/2026

PETITIONER'S :-

1. Sri. Mahesh S/o Earanna,
Age 22 yrs, Occ Labour,
R/o H.No.4-4-194 Ashok Nagar
Now at Mailar Nagar, Raichur.
2. Sri. Narasimhalu @ Narasimhalu
Brucelee S/o Yallappa,
Age 45 yrs, Occ Business,
R/o H.No.12-6-237/293 Mailar
Nagar, Ali Colony, Raichur.

(Accused No.1 and 2 as per FIR)

(By Sri. Timmappa Advocate)

// VS //

RESPONDENT :-

The State through
Market Yard Police.

(By Ld. Public Prosecutor, Raichur)

// ORDER //

On behalf of the petitioner No.1 and 2 / accused No.1 and 2 this regular bail petition is filed U/Sec. 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, contending that the petitioners are not committed any offences and they are innocent and false case is registered against them and IO did not follow the mandatory requirement of Sec. 47 of BNSS-2023 and he failed to serve / intimate the grounds of arrest in writing to the accused at the time of arrest. Further it is contended that the petitioners are ready to abide by all the conditions.

2. Learned PP filed objection and opposed the bail petition contending that alleged offences U/Sec. 275, 286, 123 of Bharatiya Nyaya Sanhita - 2023 and Sec. 32 and 34 of Karnataka Excise Act – 1965 and the petitioners committed heinous offence. Further it is

contended that in all 30 cases are registered against petitioner No.1 / accused No.1. Further it is contended that if the petitioners are released on bail they may commit similar offences, abscond or threaten the prosecution witnesses.

3. After considering the arguments submitted from both sides and after perusal of the papers now, the point that would arise for determination of the Court is :

**Whether the petitioner No.1 and 2 /
accused No.1 and 2 have made out good
and sufficient grounds to grant regular
bail to them as sought?**

4. My finding on the above point is in the “**affirmative**” for the following ;

// R E A S O N S //

5. Alleged offences are U/Sec. 275, 286, 123 of Bharatiya Nyaya Sanhita - 2023 and Sec. 32 and 34 of Karnataka Excise Act – 1965.

6. During course of argument Ld. Advocate for petitioners argued that the petitioner No.1 and 2 are innocent and they have not committed any offences. Further argued that the IO did not furnished arrest intimation to the petitioners and violated the provision of Sec. 47 of BNSS-2023. Further he argued that the petitioners are in JC from 03.03.2026 and there is a prima-facie case in favour of petitioners and they are ready to abide by all the conditions. Accordingly Ld. Advocate for petitioners prays for grant of regular bail.

7. In support of his argument Ld. Advocate for petitioners relied the following decisions :-

1. Judgment of Hon'ble Supreme Court dated 25.03.2025 in Criminal Appeal No.1518/2025 between Ashish Kakkar and UT of Chandigarh. In this decision Hon'ble Supreme Court held that failure to serve / intimate grounds of arrest to the accused at the time of his arrest is violation of Article 22(1) of Constitution of India.

2. Judgment of Hon'ble Supreme Court dated 07.02.2025 in Criminal Appeal No._____ of 2025 (Arising out of Special Leave Petition (Crl.) No.13320 of 2024) between Vihaan Kumar V/s State of Haryana and Another of. In this decision Hon'ble Supreme Court held that failure to serve / intimate grounds of arrest to the accused at the time of his arrest is violation of Article 22(1) of Constitution of India.

8. On the other hand, the learned PP argued that alleged offence U/Sec. 123 of Bharatiya Nyaya Sanhita - 2023 is heinous in nature and triable by Sessions Court and if the petitioners released on bail they may threaten the prosecution witnesses and they may abscond. Further Ld. PP argued that the petitioner No.1 / accused No.1 is involved in 30 cases of Raichur Market Yard PS. Accordingly, Ld. PP prays for rejection of bail petition.

9. This Court observed that Ld. PP not disputed the fact that IO failed to comply Sec. 47 of BNSS-2023.

10. Under these circumstances, I would like to rely on the decision reported in **2010 (14) S.C.C. Page 496** between **Prashant Kumar Sarkar Vs. Ashish Chaterjee & Another** of Hon'ble Apex Court. In this decision, the Hon'ble Supreme Court has held as under:-

“Section 439 of Cr.P.C., - Factors to be borne in mind while considering bail application – High Court to exercise its discretion judiciously, cautiously and strictly in compliance with basic principles laid down in a plethora of decision of Supreme Court that- The factors to be considered reiterated – prima facie or reasonable grounds to believe the accused had committed offence- Nature and gravity of accusation – Severity of punishment – Danger of accused absconding and fleeing - Character behaviour, means position and standing of accused – Likelihood of offence being repeated – Reasonable apprehension of witnesses being influenced – Danger of justice being thwarted by grant of bail”

11. Hon'ble Supreme Court in it's recent Judgment **dated 09.08.2024 in criminal appeal arising out of SLP Crl.No.8772 of 2024 [Manish**

Sisodia Vs. Director of Enforcement (ED)] discussed in detail on right of the accused for grant of bail and also observed that the principle **“bail is rule and jail is exception”** should be recognized by the trial Courts and High Courts.

12. In this present case on hand also there are no reasons to believe that if the petitioners granted bail they may flee from justice or threaten the prosecution witnesses. Since the petitioner No.1 involved in number of similar cases it is just and proper to impose strict conditions on the petitioners.

13. For the reasons stated above, this Court satisfied to grant regular bail to the petitioners by imposing strict conditions, in order to meet the ends of justice. Accordingly, I answer above said point for determination in the **“Affirmative”** and proceed to pass the following:

// ORDER //

The bail petition filed on behalf of the petitioner No.1 and 2 / accused No.1 and 2 U/Sec. 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 is hereby allowed.

Petitioner No.1 and 2 / accused No.1 and 2 in Crime No.18/2026 of Market Yard Police Station for the offences punishable U/Sec. 275, 286, 123 of Bharatiya Nyaya Sanhita - 2023 and Sec. 32 and 34 of Karnataka Excise Act – 1965, is ordered to release on regular bail subject to following :-

: CONDITIONS :

1. The petitioners shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One lakh Only) each with **two solvent sureties or cash security of Rs.20,000/- each** for the like sum to the satisfaction of the Committal Court.

2. The petitioners shall appear before SHO on every Sunday in between 10:00 AM and 05:00 PM till filling Final Report.

3. The petitioners shall appear before the Court regularly.

4. The petitioners shall co-operate to the IO for investigation.

5. The petitioners shall not threaten the prosecution witnesses.

6. The petitioners not indulge any criminal activities.

(Dictated to the Typist-Copyist, transcribed and computerized by him, corrected, signed and then pronounced by me in the open Court on this the 26th day of March, 2026)

(Hattikal Prabhu S)
II-Addl. District & Sessions Judge,
Raichur.