



**IN THE COURT OF THE IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE TUMAKURU, SITTING AT MADHUGIRI**

DATED THIS THE 01ST DAY OF JUNE 2026

-: PRESENT:-

**SMT. SUMANGALA S BASAVANNOUR, B.COM., L.L.M.,
IV ADDL. DISTRICT AND SESSIONS JUDGE, TUMAKURU-MADHUGIRI**

Crl.Misc.No.5171/2026

Petitioner/ : Shivanna,
S/o Eeranna,
Aged about 54 years,
R/at Pennobanahalli,
Nidgal Hobli,
Pavagada.

[By -S.J- Advocate]

V/S

Respondent : The State by Arasikere Police Station.

[By Pubic Prosecutor]

**ORDER ON BAIL PETITION FILED BY THE PETITIONER/
ACCUSED UNDER SECTION 483 OF BHARATHIYA
NAGARIK SURAKSHA SANHITA, 2023**

The present petition filed by the petitioner under section 483 of Bharathiya Nagarik Suraksha Sanhita, 2023, seeking regular bail in crime No.109/2025 registered by the respondent Arasikere Police Station for the offenses



punishable under section 103(1) of Bharatiya Nyaya Sanhita, 2023. After filing charge-sheet the offence alleged against the petitioner and other accused are punishable under Section 103(1), 238 of Bharatiya Nyaya Sanhita, 2023. The crime registered against the petitioner on the basis of the first information given by first informant Kavitha as per first information dated 10.12.2025.

2. As per FIR and first information the allegations against the petitioner is that, on 28.11.2025 at about 5-30 p.m Kenchappa grand father of the first informant's left home by stating he was going to Siddeshwaradurga by bus but Kenchappa was not went to Siddeshwaradurga and he was missing. On 08.12.2025 dead body of grand father of first informant was found in the well situated in the land of Manjunatha and they found Latral pipe was tied on the dead body. On enquiry they came to know that Pennobanahalli Shivanna took the grand father of the first informant for non-veg meals, so they suspect said Shivanna murdered their grand father. Case was registered in Arasikere Police Station under UDR.No.15/2025 for the offence punishable under Section 194(3)iv) of BNSS. Further on hurry she has wrongly stated the date of missing



of her grand father as 28.11.2025 but it was 27.11.2025. Thereafter on 10.12.2025 at about 7-00 p.m when she was near Manjunatha Medical Store to take medicine, at that time Keshava was working in medical store and they were discussing with regard to the grand father of first informant, Keshava told that on 27.11.2025 at about 6-30 p.m he has seen the grand father of first informant with Shivanna near Lingadahalli SBI, Bank, Pennobanahalli Village. First informant grand father wearing two gold rings and he always kept more money in his packet. When the dead body of grand father of first informant was found in the well situated in the land of Manjunatha gold rings and clothes were not found on the dead body. So by considering all these facts said Shivanna took grand father of the first informant to Non-veg meals on 27.11.2025 and committed murder, removed the cloths, ties latrine pipe around the waist of her grand father and thrown into the well. On the basis of first information crime registered against the petitioner by the respondent police and proceeded with investigation.

3. The petitioner filed present petition before the Court seeking regular bail. The contention of the petitioner is that, the case has been committed to this Court and now it is



pending as SC.No.5013/2026. The case is at the stage of trial and no further investigation requiring custody of the petitioner/accused survives. Prolonged judicial custody. The petitioner was arrested on 15-12-2025 and has been in continuous judicial custody since then. The trial has not yet commenced and is likely to take considerable time. The continued detention of the accused/ petitioner amounts to pre-trial punishment, which is impermissible under law. Completion custody for investigation-no need for custody. The entire investigation is already completed and the charge sheet has been filed. Therefore, custodial interrogation of the accused is no longer required. Continued detention of the accused is unjustified and serves no purpose. Case based purely on circumstantial evidence. The prosecution case is entirely based on circumstantial evidence without any direct eyewitness to the alleged incident. The alleged "last seen" theory is weak, delayed, and unsupported by reliable independent evidence. The chain of circumstances is incomplete and does not unerringly point towards the guilt of the accused. Medical evidence does not support homicide (crucial ground). The post-mortem report dated 09-12-2025 clearly reveals that the dead body was highly decomposed and mummified, and external injuries could



not be visualized. Importantly, the cause of death was kept reserved pending FSL report. Subsequently, the final medical opinion dated 08-03-2026 categorically states that the cause of death could not be determined due to advanced decomposition. This creates a serious doubt as to whether the death was homicidal at all, thereby striking at the root of the prosecution case. Contradiction between medical and prosecution version. The prosecution alleges strangulation and murder; however, the medical evidence does not corroborate this version. The hyoid bone is intact, neck structures are not clearly damaged, and due to decomposition, no definite signs of strangulation are established. Thus, the medical evidence does not support the theory of homicidal death, making the prosecution case highly doubtful. Failure to establish cause of death. It is a settled principle that in a case of alleged murder, the prosecution must first establish the cause of death. In the present case, even after post-mortem and subsequent opinion, the cause of death remains unknown. Therefore, the basic ingredient of the offence under section 103(1) BNS is not satisfied. Doubtful recovery and absence of material objects. The alleged motive of robbery is not substantiated, as the gold rings allegedly stolen have not been recovered.



The prosecution itself admits that the rings are missing and no traceable. Hence, the alleged motive fails, further weaken in the case. Inadmissibility of alleged confession. The so-called voluntary statement made before the police inadmissible in evidence and cannot be relied upon. There is no independent corroboration of such alleged confession. Initial registration as UDR-doubtful prosecution theory. The case was initially registered as an unnatural death report (UDR) and later converted into a murder case. This clearly indicates that even at the initial stage, the cause of death was uncertain and doubtful. No prima facie case made out. In the absence of direct evidence, reliable circumstantial chain, established cause of death, and recovery of incriminating material, there is no strong prima facie case against the accused. The allegations are highly doubtful and do not justify continued detention. Violation of right to personal liberty. The petitioner/accused has been in custody for a substantial period without trial. Prolonged detention violates the fundamental right guaranteed under article 21 of the constitution of India. Accused not a flight risk. The petitioner/accused is a permanent resident of Pennobanahalli Village, Pavagada Taluk, having deep roots in society. He owns movable and immovable properties and



has strong family ties. Hence, there is no likelihood of absconding. The petitioner is the sole bread earner of his family. No possibility of tampering as all the material evidence has already been collected and charge-sheet filed. The petitioner undertakes to abide by the conditions imposed by the Court and will not flee away from the jurisdiction of this Court. With above grounds he prays to grant bail.

4. The Learned Public Prosecutor opposed bail petition by filing statement of objections. It is contended by the public prosecutor that the petitioner committed the murder of Kenchappa to gain illegal profit. Golden rings has to be recover. The statement of the witnesses has to be recorded. If the petitioner is released on bail he may tamper the witness and documents. The petitioner is not entitled to bail because he has committed serious offence punishable under section 103(1) of BNS which is heinous offence and non-bailable in nature. The petitioner is influential person in the society hence if the petitioner is released on bail there is every chance to abscond from the jurisdiction of this Court and may tamper the prosecution witnesses. Therefore, at this stage the petitioner is not entitled to bail.



With above grounds pray to reject the bail petition.

5. I have heard the parties and perused the materials on record. The counsel for the petitioner has relied upon following citations;

1. Siddharth Vs. State of UP, (2022)10 SCC 51
2. Union of India K.A.Najeeb, (2021)3 SCC 713
3. Dataram Singh Vs. State of UP (2018)3 SCC 22
4. Sharad Birdhichand Sarda Vs. State of Maharashtra, (1984)4 SCC 116
5. Thaman Kumar Vs. State of Union Territory of Chandigarh, (2003)6 SCC 380
6. State of Haryana Vs. Bhagirth, (1999)5 SCC 96
7. Ram Gulam Chaudhary Vs. State of Bihar, (2001)8 SCC 311
8. Pulukuri Kottaya Vs. Emperor, AIR 1947 PC 67
9. Aghnoo Nagesia Vs. State of Bihar, AIR 1966 SC 119
10. Karnataka HC; Shivappa Vs. State of Karnataka 2016 SCC online Kar 3456
11. P.Chidambaram Vs. Directorate of Enforcement (2020)13 SCC 791
12. Maneka Gandhi Vs. Union of India, (1978)1 SCC 248
13. Dataram Singh Vs. State of U.P. (2018)3 SCC 22



14. Sanjay Chandra Vs CBI, (2012)1 SCC 40
 15. Siddharam Salingappa Mhetre Vs. State of Maharashtra, (2011)1 SCC 694
6. The points that arise for my consideration is:-
- 1] Whether petitioner/accused has made grounds to grant regular bail under section 483 of *Bharathiya Nagarik Suraksha Sanhita, 2023*, in crime No.109/2025 registered by the respondent Arasikere Police Station for the offenses punishable under section 103(1), 238 of *Bharatiya Nyaya Sanhita, 2023*, ?
 - 2] What order, ?
7. My answer to the above said point which as under.
1. Point No.1 : In the Negative;
 2. Point No.2 : As per final order for the following:-

-.REASONS:-

8. **POINT NO.1:-** In the case on hand, it is allegations against the petitioner that, on 28.11.2025 at about 5-30 p.m Kenchappa grand father of the first informant's left home by stating he was going to Siddeshwaradurga by bus but Kenchappa was not went to Siddeshwaradurga and he



was missing. On 08.12.2025 dead body of grand father of first informant was found in the well situated in the land of Manjunatha and they found Latral pipe was tied on the dead body. On enquiry they came to know that Pennobanahalli Shivanna took the grand father of the first informant for non-veg meals, so they suspect said Shivanna murdered their grand father. Case was registered in Arasikere Police Station under UDR.No.15/2025 for the offence punishable under Section 194(3)iv) of BNSS. Further on hurry she has wrongly stated the date of missing of her grand father as 28.11.2025 but it was 27.11.2025. Thereafter on 10.12.2025 at about 7-00 p.m when she was near Manjunatha Medical Store to take medicine, at that time Keshava was working in medical store and they were discussing with regard to the grand father of first informant, Keshava told that on 27.11.2025 at about 6-30 p.m he has seen the grand father of first informant with Shivanna near Lingadahalli SBI, Bank, Pennobanahalli Village. First informant grand father wearing two gold rings and he always kept more money in his packet. When the dead body of grand father of first informant was found in the well situated in the land of Manjunatha gold rings and clothes were not found on the dead body.



9. The averments of the charge-sheet discloses that the petitioner Shivanna with an intention to gain illegal profit committed murder of first informant's grand father Kenchappa for his golden rings. On 27.11.2025 the accused called over the phone and asked Kenchappa to come Chicken party at Lingadahalli. The petitioner purchased chicken at Lingadahally and at about 6-30 p.m the petitioner took Kenchappa to his house situated at Pennobanahally Gollarahatti and prepared chicken sambar and ragi ball, then the accused took Kenchappa to the land of Sanneramma bearing Sy.No.32/2 by stating that it is good place for consuming alcohol near the well bund. When Kenchappa was in intoxicated condition the petitioner strangled Kenchappa's neck with a rope which was hidden in lungi and committed murder, then the petitioner removed the golden rings. Thereafter by thinking if he left the dead body of Kenchappa it will known by all, so if the dead body put into well by tiding stone it will not come out. So in order to hide the murder he removed the cloths of the dead body of Kenchapp and it was hidden in the brick shed and brought letarine pipe, tied around the waist, the petitioner put the size stone in the plastic bag and tied the said plastic bag to the dead body and thrown the dead body into the



well. On 28.11.2025 the petitioner was observing whether the dead body was floating on the well. Thereafter the petitioner went to his daughter's house situated at Dasarahalli, Bengaluru and it is very difficult to him to keep two gold rings without the knowledge of his family members. So on 02.12.2025 at about 7-30 p.m he dug mud in the site belongs to C.W.6 and put two gold rings in a black plastic cover and hidden the same. On the next day at about 8-00 a.m he saw that C.W.6 was leveling the land for constructing the new building and thrown the said mud near the tank bund situated at Lakkenahalli. So the petitioner searched the golden rings but not found. Therefore the charge-sheet averments prima facie at this stage clearly indicates that the petitioner has committed alleged offence.

10. During the course of the arguments the counsel for the petitioner relied upon the medical legal report which shows the opinion of the doctor as, on perusal of the above references I am of the opinion that the death of the deceased is difficult to conclude as the body is highly decomposed and mummified. But at this stage the Court cannot come to finding on the said opinion.



11. The Hon'ble Supreme Court in the case of Mahipal Vs. Rajesh kumar it is held that,

“However, it is not for the court to assess in detail the evidence on record to come to a conclusive finding on a chain of causation. A court assessing a plea of bail is required to find a prima facie view of the possibility of the commission of the crime by the accused and not conclude that the alleged crime was in fact committed by the accused beyond reasonable doubt.”

12. The Delhi High Court has observed in *Akshay Kanotra v. State NCT reported in (2020) 2 SCC 454* that, court granting bail should examine if prima facie case against accused is made, it is not required to appreciate evidence. Further held that though at the time of consideration of bail amidst trial, in-depth analysis of testimonies of witnesses and scientific and medical evidence on record is not to be done, however, while considering an application for bail a prima facie opinion has to be formed and for doing so, a number of factors have to be borne in mind such like nature of the offense, the seriousness of the charge and whether continued detention of accused in judicial custody during



trial shall meet or defeat the ends of justice.

13. In the case on hand, the offences alleged against the petitioner under section 103(1) of BNS is punishable with death or imprisonment for life with fine. It appears to be there is a strong prima facie case against the petitioner. It is apparent from the case record that, there are specific allegations against the petitioner regarding his involvement in the commission of the offence.

14. In the present case final report filed against the petitioner. The Hon'ble Supreme Court held in Narcotics Control Buro Vs. Mohit Agarwala in the case 2022 SCC online SC 891 held that,

“Mere filing of charge-sheet was not a grounds at all or had no persuasive value to grant bail to an accused of allegedly committing an offence. The Court also opined that the materials available on record did not suggest that there were reasonable ground to believe that respondent was not guilty of committing the alleged offence. So it is settled law that, mere filing of charge sheet does not automatically entitled an accused to bail.”



15. In the present case the material available on records did not suggests that there were reasonable grounds to believe that the petitioner was not guilty of committing alleged offence under Section 103 of BNS.

16. Further if bail is granted there is every chance to tamper the prosecution witnesses as the first informant is the material witness to the incident. The gravity of the offence, the manner in which the crime was committed and the potential impact on the public interest if bail is granted cannot be overlooked.

17. The Hon'ble Supreme Court emphasized that the seriousness of the offences is a crucial factor in bail considerations. The nature of the crime may outweigh other factors, especially if it involves heinous acts. There is strong prima facie materials to reject the petition filed by the petitioner. If the petitioner is released on bail he may commit similar offence. Considering the seriousness of the allegations and gravity of offence and possibility of tampering of evidence or influencing witnesses, this Court is felt that it is not a fit case to grant regular bail to the petitioner hence the bail petition is liable to reject. Accordingly, I answer point No.1 in the Negative.



18. **POINT NO.2:-** In view of my finding on point No.1, I proceed to pass the following:-

:-ORDER:-

The bail petition in Crl.Misc.No.5171/2026 filed by the petitioner/accused under section 483 of *Bharathiya Nagarik Suraksha Sanhita, 2023* is herewith rejected.

(Dictated to the stenographer, same is corrected, signed and then pronounced by me in the open court, on this the 01st day of June, 2026)

sd/-

(SUMANGALA S BASAVANNOUR)
IV Additional District & Sessions Judge,
Tumakuru, Sitting at Madhugiri