



**IN THE COURT OF V ADDITIONAL DISTRICT AND SESSIONS
JUDGE, TUMKUR (SITTING AT TIPTUR).**

Dated this 24th day of June, 2026

Present:

**SRI. HEMANTH KUMAR. C.R. B.A.L., L.L.B.,
V Addl. District and Sessions Judge
Tumkur (Sitting at Tiptur)**

Crl. Misc. No. 10225/2026

Petitioner/s : 1. Shivaraju P.R.
S/o Rangegowda
Aged about 46 years,
R/o : Pumagame Village,
Dudda Hobli,
Hassan Taluk.

(By; Smt.K.R.C., Advocate)

V/s

Respondent : 1. Smt. Roopa
Geologist,
Office of the Deputy Director of Mines
and Geology Department,
Tumkuru.

**2. State by
Nonavinakere Police Station**

(By Public Prosecutor)

**Order on bail petition filed U/sec 482 of Bharathiya Nagarika
Suraksha Sanhita 2023**

This petition is filed by the petitioner seeking anticipatory
bail U/Sec.482 of BNSS, 2023 in PCR No. 30/2018 (CC



No.216/2021) and Crime No.05/2018 for the offences punishable U/Sec. 379 of IPC, Section 21 of MMDR Act, 1957 and Section 44 of KMCR Act, 1994.

2) The brief facts of the case :

The complainant has lodged the complaint alleging that, while the complainant was on night patrol duty on 13.01.2018, he received credible information that certain persons were illegally transporting sand in a lorry near Hedagarahalli Cross without obtaining any valid permit. Based on the said information, the complainant, along with panch witnesses and staff members, kept surveillance near Hedagarahalli Cross at about 2.30 a.m., on 14.01.2018. At that time, a lorry carrying sand noticed proceeding from Tiptur towards Belagarahalli. The vehicle was intercepted and inspected, and it was found loaded with sand. The registration number of the lorry was KA-05-AG-1770. The driver of the lorry alighted from the vehicle and upon enquiry, disclosed his name, as Ravi s/o Puttaswamy, aged about 28 years, residents of C. Indrahalli, Hallimysore Hobli, Holenarasipura Taluk. When questioned regarding the permit for transportation of sand, Ravi state that he did not possess any permit and that he was transporting the sand illegally with the intention of earning higher profits. He further stated that one Ningaraju, who was present in the lorry, was acting as a broker. Upon enquiry, the other person disclosed his identity as Ningaraju S/o Mariyappa, working as a sand broker and residing near Ganapathi Temple, Sharada Nagar, Tiptur Town. The complainant further alleged that the accused persons had illegally extracted and transported the sand without obtaining any valid permit, with an intention to gain



unlawful profit. Accordingly, in the presence of panch witnesses, the lorry bearing registration No.KA-05-AG-1770 loaded with sand was seized under a mahazar conducted between 2.45 a.m., and 3.45 a.m. Thereafter, on returning to the police station at about 4.10 a.m., a case was registered against the accused for the offences punishable U/Sec.21 of MMDR Act, 1957 and Rule 44 of the Karnataka Minor Mineral Concession Rules, 1994. Since the respondent police were attempting to arrest the petitioner in connection with the said case, the petitioner file a private complaint in PCR No.30/2018 against the respondents, which was subsequently registered as Crime No.5/2018. Thereafter, the police filed a final report and the case came to be numbered as CC No.216/2021. The police have registered the case against the petitioner for the offences punishable U/Sec. 379 of IPC, U/Sec.21 of MMDR Act, 1957 and Rule 44 of the Karnataka Minor Mineral Concession Rules, 1994 and have submitted the FIR before the Court of the Prl. Civil Judge and JMFC., Tiptur. Apprehending arrest at the hands of the respondent police in connection with the aforesaid allegations, the petitioner have approached this court seeking an order of anticipatory bail.

3) The petitioner being accused aggrieved by the same has preferred this bail petition on the following among other grounds:

The petitioner submits that the petitioner is innocent and has not committed any offence as alleged in the complaint and has been falsely implicated in the present case. The petitioner further submits that neither the complaint lodged by the Geologist, nor the FIR, nor the final report filed by the police discloses any material connecting the petitioner with the commission of the alleged offence. The



petitioner further submits that the investigation conducted by the police and the Department of Mines and Geology reveals that accused No.1 and 2 had allegedly hired the petitioner's lorry on rental basis for transportation of sand and the petitioner has, in fact, been cited as a prosecution witness in the charge sheet, clearly demonstrating that he is not an accused in the alleged illegal activity. The petitioner further submits that the petitioner is an agriculturist having aged parents, wife and children dependent upon his income and his detention would cause irreparable hardship and severe prejudice to the entire family. The petitioner further submits that the offences alleged against the petitioner are not punishable with death or imprisonment for life and the investigation has already been completed and charge sheet has been filed and hence, custodial interrogation of the petitioner is not required. The petitioner further submits that the petitioner is a permanent resident of the address mentioned in the cause title, possessing movable and immovable properties and there is no likelihood of his absconding or evading the process of law. The petitioner further submits that the petitioner is a respectable and law-abiding citizen having good reputation in society and his arrest would cause irreparable loss to his reputation and social standing and there is no possibility of the petitioner tampering with the prosecution witnesses. The petitioner further submits that the petitioner is ready and willing to abide by the terms and conditions imposed by this court and also co-operate for the investigation and also ready to furnish surety. Hence, prays to allow the bail petition.

4) After service of notice, the learned Public Prosecutor has appeared and filed objection contending that the offences alleged



against the petitioner are grievous in nature and the complaint averments prima-facie shows that the petitioner is involved in the alleged offences. The learned Public Prosecutor has further contended that the offence alleged against the petitioner U/Sec. 21 of MMRD Act is punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees per hectare of the area. The learned Public Prosecutor has also contended that the investigation is completed and charge sheet has been filed in CC No.216/2021. The learned public prosecutor has also contended that against the present accused the trial court has issued the proclamation and the accused is the proclaimed offender as such the bail petition is not maintainable. As such, at this stage, if the bail petition of the accused is allowed there is a chances of threatening prosecution witnesses, destroy evidence, abscond and hamper the trial. Hence, prays to reject the bail petition.

5) Heard arguments and perused the records. The points that arise for my consideration are:

- 1) Whether the petitioner has made out sufficient grounds to allow the petition filed U/Sec. 482 of BNSS?
- 2) What order?

My findings on the above points are as under:

- 1) Point No.1 : In the Affirmative



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

REASONS

6) **POINT No.1:** The petitioner counsel has addressed the arguments contending that the petitioner is innocent and has not committed any offence as alleged in the complaint and has been falsely implicated in the present case. The petitioner counsel further contended that neither the complaint lodged by the Geologist, nor the FIR, nor the final report filed by the police discloses any material connecting the petitioner with the commission of the alleged offence. The petitioner counsel further contended that the investigation conducted by the police and the Department of Mines and Geology reveals that accused No.1 and 2 had allegedly hired the petitioner's lorry on rental basis for transportation of sand and the petitioner has, in fact, been cited as a prosecution witness in the charge sheet, clearly demonstrating that he is not an accused in the alleged illegal activity. The petitioner counsel further contended that the petitioner is an agriculturist having aged parents, wife and children dependent upon his income and his detention would cause irreparable hardship and severe prejudice to the entire family. The petitioner counsel further contended that the offences alleged against the petitioner are not punishable with death or imprisonment for life and the investigation has already been completed and charge sheet has been filed and hence, custodial interrogation of the petitioner is not required. The petitioner counsel further contended that the petitioner is a permanent resident of the address mentioned in the



cause title, possessing movable and immovable properties and there is no likelihood of his absconding or evading the process of law. The petitioner counsel further contended that the petitioner is a respectable and law-abiding citizen having good reputation in society and his arrest would cause irreparable loss to his reputation and social standing and there is no possibility of the petitioner tampering with the prosecution witnesses. The petitioner counsel further contended that the petitioner is ready and willing to abide by the terms and conditions imposed by this court and also co-operate for the investigation and also ready to furnish surety. Hence, prays to allow the bail petition.

7) The learned Public Prosecutor has appeared and filed objection and addressed arguments contending that the offences alleged against the petitioner are grievous in nature and the complaint averments prima-facie shows that the petitioner is involved in the alleged offences. The learned Public Prosecutor has further contended that the offence alleged against the petitioner U/Sec. 21 of MMRD Act is punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees per hectare of the area. The learned Public Prosecutor has also contended that the investigation is completed and charge sheet has been filed in CC No.216/2021. As such, at this stage, if the bail petition of the accused is allowed there is a chances of threatening prosecution witnesses, destroy evidence, abscond and hamper the trial. The learned public prosecutor has also contended that against the present accused the trial court has issued the proclamation and the accused is the proclaimed offender as such



the bail petition is not maintainable. Hence, prays to reject the bail petition.

8) On perusal of the records, it is noticed that the prosecution of the case is that while the complainant was on night patrol duty on 13.01.2018, he received credible information that certain persons were illegally transporting sand in a lorry near Hedagarahalli Cross without obtaining any valid permit. Based on the said information, the complainant, along with panch witnesses and staff members, kept surveillance near Hedagarahalli Cross at about 2.30 a.m., on 14.01.2018. At that time, a lorry carrying sand noticed proceeding from Tiptur towards Belagarahalli. The vehicle was intercepted and inspected, and it was found loaded with sand. The registration number of the lorry was KA-05-AG-1770. The driver of the lorry alighted from the vehicle and upon enquiry, disclosed his name, as Ravi s/o Puttaswamy, aged about 28 years, residents of C. Indrahalli, Hallimysore Hobli, Holenarasipura Taluk. When questioned regarding the permit for transportation of sand, Ravi state that he did not possess any permit and that he was transporting the sand illegally with the intention of earning higher profits. He further stated that one Ningaraju, who was present in the lorry, was acting as a broker. Upon enquiry, the other person disclosed his identity as Ningaraju S/o Mariyappa, working as a sand broker and residing near Ganapathi Temple, Sharada Nagar, Tiptur Town. The complainant further alleged that the accused persons had illegally extracted and transported the sand without obtaining any valid permit, with an intention to gain unlawful profit. Accordingly, in the presence of panch witnesses, the lorry bearing



registration No.KA-05-AG-1770 loaded with sand was seized under a mahazar conducted between 2.45 a.m., and 3.45 a.m. Thereafter, on returning to the police station at about 4.10 a.m., a case was registered against the accused for the offences punishable U/Sec.21 of MMDR Act, 1957 and Rule 44 of the Karnataka Minor Mineral Concession Rules, 1994.

9) On perusal of the records, it is noticed that the petitioner file a private complaint in PCR No.30/2018 against the respondents, which was subsequently registered as Crime No.5/2018. Thereafter, the police filed a final report and the case came to be numbered as CC No.216/2021. The police have registered the case against the petitioner for the offences punishable U/Sec. 379 of IPC, U/Sec.21 of MMDR Act, 1957 and Rule 44 of the Karnataka Minor Mineral Concession Rules, 1994 and have submitted the FIR before the Court of the Prl. Civil Judge and JMFC., Tiptur. The petitioner has contended that he is ready and willing to abide by the terms and conditions imposed by this court and also co-operate with the investigation. The learned public prosecutor has also contended that against the present accused the trial court has issued the proclamation and the accused is the proclaimed offender as such the bail petition is not maintainable and the also relied on the judgment of the Honble Supreme court of India between **Prem Shankar Prasad V/s State of Bihar decided on 21.10.2021 in Criminal Appeal No.1209/2021.**

Wherein the Honble Supreme court has held that - *The accuse is 'absconding' and declared as a 'proclaimed offender', there is no*



question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail.”

10) In the present case the petitioner has produced the order sheet and the summons and the warrant issued by the trial court, this court having perused the order sheet the summons and warrant shara it is noticed that there is no proper service of the summons by the prosecution to issue NBW against the accused and other further steps initiated against the accused-Shivaraju. In view of the judgment of the Hon'ble Supreme court of India in **2024 SCC Online SC 5633 in Criminal Appeal No.4564/2024 (@ SLP (Crl.) No.13123/2024) in a case between Asha Dubey V/s State of Madhya Pradesh.**

Wherein, the Honble Supreme court has held that - *Considering the facts and circumstances of the case, we are of the view that the custodial interrogation of the appellant is not required. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail. When the liberty of the appellant is pitted against, this Court will have to see the circumstances of the case, nature of the offence and the background based on which such a proclamation was issued. Suffice it is to state that it is a fit case for grant of anticipatory*



bail, on the condition that the appellant shall cooperate with the further investigation.

11) In view of the recent judgment of the Honble Supreme court of India and considering the facts and circumstances of the case the petitioner has made out sufficient grounds to consider the bail petition on merits. The offences alleged against the petitioner though are grievous in nature and are not punishable with imprisonment for life or death sentence. In the present case, the investigation has been completed and charge sheet has been filed, as such no purpose would be served if the accused is arrested and sent to judicial custody. The guilt of the petitioner has to be proved during the course of trial at this stage, it cannot be said that the petitioner is involved in the alleged offences and the petitioner having contended that he is ready and willing to abide by the terms and conditions and also co-operate with the investigation. The apprehension of the prosecution is that if the bail petition of the accused is allowed, there is every chance of petitioner threatening the prosecution witnesses, destroy evidence, abscond and hamper the trial. The said apprehension of the prosecution can be satisfied by imposing stringent conditions. Considering all these facts, I am of the opinion that the petitioner can be enlarged on bail by imposing certain conditions, which would meet the apprehension of the prosecution. Accordingly, I answer the point No.1 in **Affirmative**.

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



ORDER

The petition filed by the petitioner U/Sec.482 of BNSS, 2023 is hereby allowed.

The respondent No.2 – Nonavinakere Police is directed to release the petitioner on bail in the event of his arrest in Crime No.05/2018 and PCR No.30/2018 (C.C. No.216/2021) for the offences punishable U/Sec. 379 of IPC and U/Sec.21 of MMDR Act, 1957 on obtaining self bond for Rs. 50,000/-, with one surety for like-sum subject to the following;

Conditions:

- 1) The petitioner shall not hamper or tamper with the prosecution witnesses or evidence in any manner.
- 2) The petitioner shall not commit or involve in similar offences in future.
- 3) The petitioner shall produce address proof document and not violate the conditions.

(Dictated to the Stenographer, transcribed by her, script thereof revised, corrected, signed and then pronounced by me in the open Court on this the 24th day of June, 2026)

Sd/-

(Hemanth Kumar C.R.)

V Addl. District & Sessions Judge
Tumkur (Sitting at Tiptur)