



IN THE COURT OF THE PRINCIPAL DISTRICT &
SESSIONS JUDGE, UDUPI AT UDUPI.

PRESENT

Sri K.S. Gangannavar, B.Com., LLB., (Spl.)
Principal District & Sessions Judge, Udupi

Dated this 13th day of February, 2026

SPECIAL CASE No.29/2025

Complainant : The State through
PSI, Udupi Town Police Station, Udupi.
(By Learned Spl. Public Prosecutor, Udupi)

/Vs/

Accused Akbar Muhammed Byari,
S/o Mohammed,
Aged about 44 years,
R/at Palligudde, Kote Grama,
Katpadi, Kaup Taluk,
Udupi District.
(By Sri Abubakkar Siddiq M., Advocate)

**ORDER ON APPLICATION FILED U/SEC.250(2) OF
BNSS, 2023**

Accused No.2 facing allegations for the offences punishable u/ss. 22(b), 8(c), 20(b)(ii)(A) of Narcotic Drugs and Psychotropic Substances Act 1985 in Crime No.1/2025 of Udupi Town Police Station, has filed this application seeking his discharge.

2. According to complainant – Police Sub Inspector, on 03.01.2025 at about 11.15 a.m., he



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received a credible information about possession and sale of MDMA Powder and Charas by a scooterist at Beedinagudde of Shivalli Village in Udupi Taluk. Immediately, he appraised his superiors about the information and obtained their permission to conduct raid. They secured Gazetted Officer and independent witnesses for personal search and panchanama at the time of intended raid. He reached the spot at 12.50p.m., and observed a scooterist in a public place by the side of L.V. Temple road. Upon conducting raid, rider of the scooter tried to escape, but, he was caught and questioned. At that time, he disclosed his name as Nagaraj and conceded that, he is taking MDMA Powder and Charas in his scooter for the purpose of sale and he has no permit for the same. He further disclosed that he purchased the Narcotic Drugs from one Akbar of Katapadi i.e., present accused No.2 and he intends to sell the same to the students at Manipal and other general public to earn money. Complainant got the



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accused No.1 personally searched through Gazetted Officer obtaining his consent. On that occasion, accused No.1 found to be in possession of MDMA powder weighing 49 grams and 46 milligrams worth Rs.2,50,000/- and 3 grams 86 milligram weighing Charas worth Rs.3,500/-. His Realme ui mobile hand set was worth Rs.20,000/- with Airtel SIM No.7760609003 and Redmi Mobile worth Rs.2,000/- were also seized along with scooter bearing Regn. No.KA.51/AB.7901 worth Rs.50,000/-.

3. The report was placed with SHO. On completion of investigation, charge sheet has been filed.

4. Accused applicant, in support of the relief, has contended that charge sheet was filed in this case on 07.04.2025. Later, solely on the confession statement of accused No.1 that he purchased contraband materials 'from one Akbar of Katapadi' Investigating Officer submitted requisition dated 15.04.2025 seeking police custody of accused No.2.



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Except the confession, there is no any material to proceed against accused No.2 in this case. Neither contraband material has been seized from custody of accused No.2 nor any data retrieved to show money transaction relating to narcotic drugs involving accused No.2. Just because, accused No.2 was accused in Spl. Case No.47/2025 (Udupi Town PS Cr.No.233/2024), to show the source of narcotic drugs found in possession of accused No.1 in this case, he is falsely involved in this case. It is not the case of prosecution that accused No.2 was physically present at scene of offence. There is no material to show the role of the accused No.2 in this case. There is no explanation as to when accused No.2 gave narcotic drugs to accused No.1, how he received/transferred money and what was the quantity of the contraband material so received. Hence, it is prayed that accused No.2 be discharged of the alleged offences.



5. Learned Special Public Prosecutor has filed objections opposing the application. In his detailed objections, he relied upon the complained allegations and contended that during custodial interrogation, accused No.2 has conceded that he received narcotic drugs from one John (a Negro) based in Bengaluru and shown the place where he had handed over the same to accused No.1 herein. Earlier, accused No.2 is involved in Special Case No.47/2025 (Udupi Town PS Cr.No.233/2024) as accused No.1 being in possession of 69 grams 127 miligrams of MDMA powder. It is further contended that only it is to be seen at this stage whether there are materials to proceed with the case. There is no need to consider the question, whether the materials would be sufficient to convict. In view of the same, there are no grounds to discharge the accused No.2 as sought for. Hence, sought to reject the application.

6. Heard both sides. Perused the materials.



7. Point that arise for consideration is:

“Does the applicant make out sufficient ground to be discharged?”

8. Above point is answered in the negative for the following:

REASONS

9. It is prime allegation of the prosecution that accused came in possession of seized narcotic substances from accused No.2 based on which disclosure, accused No.2 is implicated.

10. It is now contended that there are no materials to believe these allegations nor any narcotic substance of similar nature or different nature is seized from the applicant/accused or there are no financial transactions between accused Nos.1 and 2. Thereby seeks discharge from the prosecution.

11. Possession of narcotic substance is prohibited. Any person having knowledge about prohibition will not maintain the evidence or records as



much as maintained for a legally enforceable transaction. In other words, passing of consideration or a habit of possession are so much concealed that ordinary material evidence are often become an exception in appreciating or in performing the transaction of prohibited nature.

12. Therefore, as appearing from the records, now accused No.2 is implicated on the basis of statement of accused No.1. Non-possession of narcotic substance or absence of the records for transfer of amount to possess the narcotic substance by themselves are not complete materials to disbelieve the case of prosecution. These materials are to be examined in a full-fledged trial. Further entertaining the plea of the accused, as of now, against the allegations of the prosecution, would be restricting the prosecution from leading evidence in substantiating the allegations. Hence, granting of the relief to a greater extent hinder the prosecution from canvassing available evidence. On



the failure to substantiate the allegations, consequences will follow. As of now, applicant accused is on bail. Hence, any just grounds to allow the application filed under Section 250 (2) of BNSS is not found.

13. Accordingly, above point is answered in the negative. Hence, the following:

ORDER

The application U/Section.250(2) of BNSS filed by applicant/accused No.2 is hereby rejected.

Since accused No.1 is in JC, matter shall be taken on priority.

(Dictated to the Stenographer Grade-I, transcript revised/corrected, then pronounced in the open court on 13th day of February, 2026)

(K.S. Gangannavar)
Principal District & Sessions Judge
Udupi.