



**IN THE COURT OF THE II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, UDUPI.**

Present

Sri.A.SAMIULLA.

B.Sc, LL.B.,

**II Additional District & Sessions Judge,
Udupi.**

Dated: 27th day of May 2026

SC.No.33 of 2023

Between:

The State,
Kapu Police Station,
R/by Public Prosecutor,
Udupi District.

**..... Petitioner
(Learned PP)**

Versus

Sri.Yogesh Acharya,
Age; 54 years,
S/o Sankrayya Acharya,
R/at Thodabettu, Katpadi,
Udupi Taluk and District..

**..... Respondent
(By Sri.CLD/YTR)**

O R D E R

The prosecution has moved this Court under
Section 483(3) of BNSS, seeking cancellation of the
regular bail granted to the respondent/accused-1
Yogesh Acharya in SC.No.33 of 2023 by the Hon'ble



High Court of Karnataka in Criminal Petition
No.13669 of 2024 dated 31.01.2025.

2. Notice was issued to the respondent, who was represented by the learned counsel Sri.YTR, and filed a statement of objections.

3. Following point arises for consideration;

Is the prosecution justified in seeking cancellation of the respondent's (A1) regular bail?

4. Answer is **No**; for the following;

REASONS

5. Point-1: The Kapu police have submitted a charge sheet against the accused-1 to 7 for offences punishable under Sections 120B, 201, 302 r/w Section 34 of the IPC.

6. The accused-1 was enlarged on regular bail by the Hon'ble High Court of Karnataka in Criminal



Petition No.13669/24 dated 31.01.2025, subject to the conditions enumerated therein, which reads as follows;

a) Petitioner shall execute personal bond for a sum of ₹ one lakh with two sureties for the like sum, to the satisfaction of the jurisdictional Court;

b) Petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;

c) Petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) Petitioner shall not involve in similar offences in future;

e) Petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

7. The prosecution has filed the present application for the relief stated *supra*, contending that accused-1 has violated his bail conditions. Specifically, despite an explicit condition directing



him not to involve himself in similar offences in the future, the accused-1 has gone to involve himself in a new case, registered in Kapu PS Crime No.135/25 for the offences punishable under Sections 351(2), 351(3), 351(4), 231(1), 308(4) of BNS and Sections 3(1)(ii), 3(2), 3(4) of COCA Act.

8. In support of its contention, the prosecution has produced the Investigation Officer's report along with a copy of the FIR in Crime No.16/23. Additionally, copies of the order sheet of SC.No.33/23, the FIR in Crime No.135/25, the complaint, and the order passed in Criminal Petition No.13669/24 have been placed on record.

9. Accused-1 has resisted the application by filing a statement of objections, contending that the present application has been filed merely to harass



him and that no valid grounds exist to cancel the bail order. It is contended that the allegations in Crime No.135/25 merely state that at the instigation of this accused and others, the accused Kali Yogesh threatened Chandrashekhar Shetty not to give evidence against them & to settle the monetary dispute. The prosecution has produced no documentary evidence to show his direct involvement in the said case, which is still under investigation. Furthermore, it is submitted that the accused has obtained bail, has strictly followed all bail conditions, and is currently in judicial custody in COCA Act. Asserting that no grounds for cancellation are made out, the accused-1 prays for the rejection of the application.



10. It is pertinent to note that the specific condition imposed upon accused-1 was restricted to the mandate that he shall not involve himself in similar offences in the future. Notably, the Court did not place a blanket restriction on the accused regarding all criminal activities in general.

11. The accused-1 was granted bail in the primary case involving offences under Sections 120B, 201, 302 r/w Section 34 of IPC, subject to the condition that he shall not commit a similar offence. The subsequent registration of a new FIR (Crime No.135/25) under Sections 351(2), 351(3), 351(4) of the BNS doesn't violate condition "*not to commit similar offence*". Similar offence means offence of same genus. Since the ingredients and nature of the offences in the new crime differ fundamentally from



the original charges, they do not belong to the same genus, and consequently, no ground for breach or cancellation of bail is made out.

12. Furthermore, a perusal of FIS submitted along with the registration of the new Crime No.135/25 reveals that there is absolutely no allegation of any direct involvement, overt act, or physical participation by accused-1 in the alleged incident. The prosecution's case is that the accused therein had threatened one Chandrashekar Shetty at the instigation of the present accused-1.

13. Crucially, the prosecution has failed to place any *prima facie* material, documentary evidence, or investigative records to substantiate this theory of instigation, or to link accused-1 to the subsequent transaction.



14. It is well-established that very cogent and overwhelming circumstances are necessary to deprive an individual of their liberty once bail has been granted. A subsequent FIR based on remote, secondary, and unbacked allegations of instigation cannot form the basis for a mechanical cancellation of bail. On these grounds, the application filed by the prosecution lacks merit and deserves to be rejected. Hence, above point is answered in the negative and proceeds to pass the following;

ORDER

Application under Section 483(3) of the
BNSS filed by the State is rejected.

(Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced in the open Court on this the **27th day of May, 2026**).

(A.Samiulla)
II Addl. District & Sessions Judge,
Udupi.