

KAUP300002212026



**IN THE COURT OF I ADDITIONAL DISTRICT AND  
SESSIONS JUDGE, UDUPI (SITTING AT KUNDAPURA)**

**DATED THIS THE 5<sup>th</sup> DAY OF JUNE, 2026**

**PRESENT:**

**Sri Abdul Rahim Hussain Shaikh,  
B.Sc., B.Ed., LL.B.(Spl.)  
I Addl. District and Sessions Judge,  
Udupi (sitting at Kundapura)**

**CRL.MISC. No.603/2026**

|            |                                                                                                                                                                                                       |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Petitioner | Veekshith Hegde, 37 years,<br>S/o S. Chandrashekar Hegde,<br>Residing at Sankalpa<br>Kalavara Village,<br>Salwady Post,<br>Kundapura Taluk.<br><br>(By Sri/Smt: H. Ravischandra Shetty.,<br>Advocate) |
|            | <b>//VS//</b>                                                                                                                                                                                         |
| Respondent | State by Kundapura police Station<br><br>(By the learned Public Prosecutor)                                                                                                                           |

**ORDER ON BAIL PETITION FILED U/S.482 OF THE  
BHARATIYA NAGARIKA SURAKSHA SANHITHA 2023**

The advocate for the petitioner has filed bail petition  
U/s.482 of The Bharathiya Nagarika Suraksha Sanhitha 2023,



to grant anticipatory bail in favour of the petitioner and also direct the respondent police to release him on bail in the event of his arrest in Crime No.47/2026 in the interest of justice.

2. On perusal of the bail petition reveals that based on the complaint of Police Officer, the respondent police have registered case in Crime No.47/2026 against the petitioner and others for the offences punishable U/s. 112, 303(2) of The Bharathiya Nyaya Sanhitha 2023 and under Sections 4, 4(1A), 21 of Mines and Minerals Development and Regulation Act 1957. Now, the petitioner is apprehending his arrest at the hands of respondent police. Hence, the petitioner is constrained to file this petition .

3. The learned Public Prosecutor has filed objection in detail by reiterating the contents of the complaint and contended that this bail petition is not maintainable in law or on facts of the case. Further contended that if petitioner is granted bail, then the accused/petitioner will again involve in committing the alleged offences and also there is a chance of destroying the evidence by tampering the witnesses. Further it is also contended that the petitioner would not be available for investigation and may abscond. Accordingly, prayed for rejection of bail petition.

4. Heard the arguments on both sides and perused the materials on record.



5. The following points that arises for consideration of this Court:

- 1. Whether the petitioner has made out sufficient grounds for granting anticipatory bail in his favour at this stage as sought for?*
- 2. What order?*

6. This court has answered the above points are as under:-

- Point No.1: In the Affirmative*  
*Point No.2: As per final order*  
*for the following:-*

### **REASONS**

7. **Point No.1:** On perusal of the documents, placed before the Court, it reveals that based on the complaint that has been lodged by the complainant- Police Officer, respondent police have registered case against the petitioner in Crime No.47/2026 for the offences punishable under Sections 112, 303(2) of The Bharathiya Nyaya Sanhitha 2023 and under Sections 4, 4(1A), 21 of Mines and Minerals Development and Regulation Act 1957 .

8. It is the case of the complainant that on 27-05-2026 at 12.15 p.m., while he was on duty in the police station, on receipt of credible information regarding illegal mining, he along with his staffs rushed to the place M. D. Junction, Kundapura Kasaba Village, he found one vehicle bearing registration No.



KA 20 D 8849 loaded with 1.5 unit worth of Rs.4,000/- without having licence for unlawful gain and after ascertaining the involvement of accused/petitioner filed a complaint which was registered in Crime No.47/2026 .

9. The contention of petitioner is that he is innocent of the offences alleged against him and he has not committed any such offences, as alleged in the complaint. Further contended that only due to ill-will and with an intention to harass the petitioner, the false case has been registered against him. It is further contended that there are no prima facie materials to come to the conclusion that the petitioner has committed the alleged offences. It is further contended that the petitioner being permanent resident of Kundapura taluk who has been alleged with offences in spite of his non-involvement. On the contrary, the prosecution has submitted that unless a full-fledged trial, the accused/petitioner cannot be considered as innocent at this point of time. Further contended that if the accused is released on bail, will not be available for trial and would abscond.

10. It is pertinent to note that even for the sake of argument, it is accepted that there is prima facie case against the petitioners for the offences punishable under Sections U/s. U/s.112, 303(2) of The Bharathiya Nyaya Sanhitha 2023 and under Sections 4, 4(1A), 21 of Mines and Minerals Development and Regulation Act 1957, the said offences even



though are non-bailable, but not punishable with death or imprisonment for life.

11. However, it is well settled principle of law that the granting of bail is discretionary power of the Court and every case should be considered on the basis of facts of each case. At this juncture, I would like to quote the dictum of law laid down in the decision report in **(2011) 1 Supreme Court cases 694 (Siddharam Satlingappa Mhetre Vs., State of Maharashtra and others)** wherein the Hon'ble Supreme Court has held that :-

***“Sec.438 of Cr.P.C. is not extraordinary in the sense that it should be invoked only exceptional or rare cases – A great ignominy, humiliation and disgrace is attached to arrest – In cases where Court is of considered view that accused has joined investigation and he is fully co-operating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided, and anticipatory bail should be granted – exercise of said jurisdiction requires maintaining of perfect balance between two conflicting interests viz., sanctity or individual liberty and interest of society.”***

And also the dictum of law and guidelines laid down by the Hon'ble Supreme Court of India in Gurbaksh Singh



**Sibbia V., State of Punjab, (1980) 2 SCC 565: 1980 SCC (Cri) 465** has to be taken into consideration.

*“What is the quantum of punishment is not much important on the other hand, the Courts ought to consider such nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made. Further the antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence, and the possibility of the applicant to flee from justice is also to be considered. The possibility of the accused's likelihood to repeat similar or other offences and where the accusations have been made only with the object of injuring or humiliating the applicant by arrest him or her has to be looked into. It is equally important to note that impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people has to be taken into consideration. The Hon'ble Supreme Court has clearly laid down caution that the Courts must evaluate the entire available material against the accused very carefully and while considering the prayer for grant of anticipatory bail. While granting the anticipatory bail the balance has to*



*be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused. While considering the objections of the prosecution, the court has to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant at time of granting anticipatory bail. Further the frivolity in prosecution should always be considered while granting anticipatory bail. Also order of anticipatory bail should not be “blanket” in the sense that it should not enable the accused to commit further offences and claim relief. It should be confined to the offence or incident, for which apprehension of arrest is sought, in relation to a specific incident”.*

12. By applying the above dictum of law and guidelines laid by the Hon'ble Supreme Court of India, the present fact of the case has to be analyzed and considered. The certified copies of complaint and FIR disclose that there was apprehension of his arrest by the respondent police for the alleged non-bailable offences. Though the offences are non-bailable, but not punishable with death or imprisonment for life. At this juncture, I would like to rely on the ruling of the Hon'ble High Court reported in **Crl. P. No.2719/2017 between Gouse**



**Peer Vs State of Karnataka and others**, wherein the Hon'ble High Court at para No.7 had clearly held that as per Section 22 of M.M.D.R. Act relating to cognizance of the offence, it is clearly stated as under:

“No Court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon complaint in writing made by a person authorized in this behalf by the Central Government or the State Government.”

The Hon'ble High Court in the said order at page 15, held that police cannot file final report under Section 173 of Cr.P.C. for the offence under MMDR Act or KMMC rules either to the jurisdictional Court having jurisdiction or to the special Court having jurisdiction to proceed any further in view of bar under Section 22 of MMDR Act. It is further held that however, they can file a final report for the offence under the IPC or any other criminal law for the time being in force can be filed before jurisdictional Magistrate. It is clearly held that the police official cannot proceed with the case under the provisions of MMDR so also offence under KMMC Rules unless the competent Authority files the complaint in accordance with rules, but the police official can proceed with the case under Section 379 of IPC which is always intact. In the instant case, along with provisions of MMDR Act, the police official has invoked Section



303(2) of BNS and the said offence is non-compoundable. The properties in the instant case have been already seized. The driver of Tipper lorry has already been arrested and released on bail . The custodial interrogation of the present petitioner is not required since he is the R.C. owner who according to the prosecution was not present on the spot when his lorry was seized. The entire fact has to be gathered only after full fledged trial that the petitioner had handed over his lorry for committing the alleged offences. At this juncture, it is crystal clear that there is an apprehension that the petitioner might be arrested in non-bailable offences for interrogation by the respondent police for enquiry. By considering all the above facts and arguments canvased by prosecution, it is found that if stringent conditions are imposed on the appearance of the petitioner/accused before the I.O./Court the purpose of prosecution objection that petitioner/accused would not appear for enquiry before I.O. and trial before Court, would be met with. As per the materials on record, it is clear that the petitioner is the resident of Kundapura Taluk and ready to abide by any conditions imposed by the Court and if stringent conditions are imposed, there is no chance of fleeing away from the trial of the case. There is absolutely no any special ground made out by the prosecution to reject this bail petition. Accordingly, under these circumstances, the petitioner has made out sufficient ground for granting anticipatory bail in his favour at this stage as prayed for, as there exist reason to believe that he may be arrested in



non-bailable offences. Hence, **point No.1 is answered in the Affirmative.**

13. **Point No.2:** In view of answer of this Court on point No.1, this court pass the following:-

### **ORDER**

The bail petition filed by the petitioner U/s.482 of The Bharathiya Nagarika Suraksha Sanhitha 2023 is hereby allowed.

The petitioner is ordered to be released on bail on his executing personal bond for Rs.1,00,000/- with one surety for like sum to the satisfaction of the concerned I.O./Magistrate in the event of his arrest in the case in Crime No.47/26 of Kundapura P.S., subject to following conditions:

1. The petitioner shall make himself available for interrogation by the I.O. as and when required till the final report is filed. Further, he shall assist the I.O. in further investigation of the case.

2. The petitioner shall surrender before the concerned police within 30 days from the date of this order without fail.

3. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to



dissuade him/ her from disclosing such facts to the Court or to the concerned I.O.,

4. He shall not hamper further investigation of the case and tamper with prosecution witnesses in any manner and shall not intimidate the complainant.

5. He shall not commit similar offences or any offences during the pendency of case,

6. He shall appear before the concerned jurisdictional Court as and when directed.

7. He shall not leave the jurisdiction of this Court/India without the prior permission of the concerned court.

8. He shall not change his place of residence outside the jurisdiction of concerned Court without prior intimation to that Court, and

9. He shall furnish his residential ID address proof.

(Typed to my dictation by the Stenographer directly on Computer, corrected by me and then pronounced in open Court on this the **5<sup>th</sup> day of June, 2026**)

**(Abdul Rahim Hussain Shaikh)**  
I Addl. District and Sessions Judge,  
Udupi, (sitting at Kundapura)