

KAUP300005322025



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

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

PRESENT:

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

S.C.No.532/2025

Accused	Mohammed Asif, 32 years, S/o Mohammad Haneef R/o Badriya House, Badakere, Badakere Village, Byndoor Taluk, Udupi (By Sri/Smt: K.M.Iliyas, Advocate)
	AND
Respondent	State by S.H.O., Gangolli Police Station (By the learned Public Prosecutor)

**ORDER ON BAIL PETITION FILED U/S.483 OF THE
BHARATIYA NAGARIK SURAKSHA SANHITA 2023**

The accused No.2/petitioner has filed this bail petition U/s.483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 to



release him on bail consequent upon his remand to judicial custody in the case registered against him by the respondent police on the complaint of Vinay M Korlahalli for the offences punishable U/s.399, 402 of BNS in Crime No.97/2022 in the interest of justice. After the investigation, the charge sheet has been filed which is numbered as C.C. No.103/2023 before Addl. Civil Judge and J.M.F.C. Court, Kundapura and since the accused No.2 is absconding, case against present accused No.2 and accused No.5 is split up and separate C.C. No.279/2023 registered against them. Further when the accused No.2 produced under body warrant , case against the present accused is split up and separate C.C. No.479/2025 is registered against him and committed to this Court. Now the present accused is in J.C. since 22-09-2025

2. The accused has been arrested and produced before committal Court on 22-09-2025 and was remanded to judicial custody.

3. The petitioner claims innocence and submit that he has been falsely implicated in the said case even though he has not committed any offences as alleged in the complaint. Further it is contended that investigation is already completed and custodial interrogation of the present accused is not necessary. Further it is contended that he is permanent resident of Byndoor Taluk Taluk . It is further contended that he is a respectable and law binding citizen and having good status in the society and he is



ready to furnish surety and abide by the conditions. Therefore, the petitioner has prayed for allowing this petition.

4. Learned Public Prosecutor has filed objection to this bail petition in detail along with the report of I.O., by submitting that this petition is not maintainable in law or on facts and for the reasons stated in the objection. Further it is contended that if the petitioner is released on bail, he would abscond and would not be available for the trial. It is further contended that the petitioner is involved in various crimes i.e., crime No.48/2020, 104/2022 of Gangolli police station, Crime No.171/2020, 165/2020, 15/2020 of Byndoor police station, 35/2022 of Brahmavara police station, crime No.107/20 of Kaup police station, crime No.38/2022 of Kankanadi police station, crime No.102/2022, 111 /2021 of Uppinaangadi police station. Hence the bail application has to be rejected.

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

6. The following points that arise for my consideration are :

- 1. Whether the accused has made out any grounds for his release on bail at this stage as sought for?*
- 2. What order?*

7. My answer to the above points are as under :

Point No.1 : In the Affirmative



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

REASONS

8. **Point No.1:** On considering the papers on record, it is evident to note that the respondent police have registered case against the petitioner/accused in Crime No.97/2022 for the offences punishable U/s. 399, 402 of BNS on the complaint of complainant Vinay M Korlahalli. After the investigation, the charge sheet has been filed which is numbered as C.C. No.103/2023 before Addl. Civil Judge and J.M.F.C. Court, Kundapura and since the accused No.2 is absconding, case against present accused No.2 and accused No.5 is split up and separate C.C. No.279/2023 registered against them. Further when the accused No.2 produced under body warrant, case against the present accused is split up and separate C.C. No.479/2025 is registered against him and committed to this Court. Accused is in J.C.

9. It is the case of the prosecution that while the police official complainant was on rounds on 30-10-2022 at Hosalu village, Mullikatte and when he reached near the Indian Oil Petrol bunk of the said village, in the morning hours on 5.00 a.m. on 31-10-2022 he saw 5 persons suspiciously sitting in a car, among them, 3 persons have covered their face with kerchief and two persons were holding wooden clubs and by seeing the complainant and his staff in uniform, ran away by abandoning



the car leaving behind the culbs from the spot . Further on inspection of the car, it contained chilly powder, adhar card, pass book, cheques for which the case was registered inc rime No.97/2022 under Section 399 and 402 of IPC.

10. The petitioner claims innocence and submit that he has been falsely implicated in the said case even though he has not committed any offences as alleged in the complaint. Further it is contended that the investigation is completed and charge sheet is filed, for which, his custodial interrogation is not necessary. Further contention of the petitioner that he is permanent resident of Byndoor Taluk . It is further contended that he is a respectable and law binding citizen and having good status in the society and he is ready to furnish surety and abide by the conditions.

11. It is pertinent to note that even for the sake of argument, it is accepted that there is prima facie case against the accused/ petitioner for the offences punishable U/s. 399, 402 of BNS, the said offences though non-bailable, but are not punishable with death, but it is exclusively triable by this Court.

12. I have carefully considered the submissions made by the Learned counsel for the petitioner/accused and the Learned Public Prosecutor. It is found that the accused is already in custody from 22-09-2025 and chargesheet is already filed.



13. 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 go through the dictum of law laid down by the *Hon'ble Supreme Court in (2012) 1 Supreme Court cases 40 (Sanjay Chandra Vs. CBI)-*

"wherein the Hon'ble Court opined that "every person detained or arrested is entitled to speedy trial-Trial may take considerable time and accused will have to remain in jail longer than the period of detention – Therefore, it is not in the interest of justice that the accused should be in jail for an indefinite period – Court will have to consider while granting bail about the seriousness of charges and severity of punishment – Merely the offence alleged against the accused is serious one itself should not deter the Court from enlarging on bail when there is no serious contention from the prosecution that if the accused is released on bail, they would interfere with the trial or tamper with the witness."

And also I would like reproduce the the ruling reported in-



(2011) 1 SCC 784: (2011) 1 SCC (Cri) 409 in state of Kerala V. Raneef has stated (SCC P.789 para 15).

"In deciding bail applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail. In the present case the respondent has already spent 66 days in custody(as stated in para two of his counter-affidavit), and we see no reason why he should be denied bail. A doctor incarcerated for a long period may end up like Dr. Manette in Charles dickens's novel A tale of two cities, who forgot his profession and even his name in the Bastille."

In a significant ruling in *Smt. Shalini Bhateja & Anr. v. The State of U.P.* (2026), the Hon'ble Supreme Court bench of Justice



Ahsanuddin Amanullah and Justice K. Vinod Chandran held that **no custody is generally required after a chargesheet is filed**, directing bail upon appearance for accused in a cheating case, emphasizing that continued detention isn't justified once the investigation concludes and charges are formalized, thereby simplifying release for accused on bail.

14. 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. I have perused the averments made in the application, order sheet, complaint, F.I.R., charge sheet and other materials produced on record. On perusal of the order sheet, it reveals that the accused is in custody since 5 months. It is the main contention of the prosecution is that the accused person is involved in number of crimes and cases have been registered against them in various police station, for which, the bail application has to be rejected. On this point, I would like to rely on the decision reported in **2020 Legal Eagle (SC)77 between Prabhakar Tewari Vs State of U.P. and another**. In the said case, the Hon'ble Supreme Court has opined that while considering the bail application, criminal case is pending against the accused cannot be the basis for refusal of prayer for the bail. Considering the said dictum of law and applying to the present case, it is found that though number of cases have been registered against the accused persons is not a ground to



dismiss the bail, but the gravity of offence has to be taken into consideration. It is found that the investigation is over and there is no need to keep the custody of the accused when he is ready to furnish surety for his release. It is found that if stringent condition is imposed as contended by the prosecution in their objection that accused involved in number of cases will continue committing similar offences and also abscond, it would meet the ends of justice. Considering the gravity of offence and period of custody of more than 5 months, bail application of accused is taken for consideration. Therefore, the petitioner/accused has made out sufficient grounds for his release on bail at this stage as prayed for. Accordingly, I answer point No.1 in the **affirmative**.

15. **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 accused/petitioner U/s.483 of The Bharatiya Nagarik Suraksha Sanhita, 2023, is hereby allowed.

Consequently the accused No.2/petitioner is hereby ordered to be released on bail on his executing personal bond for Rs.1,00,000/- with one solvent surety with solvency certificate to the satisfaction of the Court in Crime No.97/2022 (S.C. No.532/2025) of Gangolli



Police Station, subject to the following conditions:-

1. The accused/petitioner shall appear before the Court as and when directed without fail.
2. He shall not directly or indirectly holdout threats to the prosecution witnesses or lure them in any manner.
3. He shall not tamper with prosecution witnesses in any manner.
4. He shall not commit similar offences or any offence during the pendency of the case.
5. He shall not leave the jurisdiction of the India without prior permission of the Court.
6. He shall not change his place of residence as mentioned in the petition without prior intimation to that Court, and
7. 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 **23rd day of February, 2026**)

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