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

**DATED THIS THE 9<sup>th</sup> DAY OF JANUARY, 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. 507/2026**

Petitioner	Santhosh Shetty, Aged 50 years, S/o Joga Shetty, R/o Bidkalkatte Village, Kundapura Taluk, Udupi District.  (By Sri/Smt K Prasanna Kumar Shetty, Advocate)
	<b>AND</b>
Respondents	State by Kundapura Police station  (By the learned Public Prosecutor)

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

The advocate for the petitioner has filed bail petition U/s.482 of The Bharatiya Nagarik Suraksha Sanhita, 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 their Crime No.126/2025 in the interest of justice.

2. The brief facts of the bail petition is that on the basis of the information of Teresa Mendonsa, the respondent police have registered a case in Crime No.126/2025 against the accused/ petitioner for an offences punishable U/s.318(2), 318(3), 318(4) of Bharatiya Nyaya Sanhita 2025. There is an apprehension of his arrest at the hands of respondent police and hence constrained to file this petition to grant bail.

3. 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 the investigation is still under progress. It is further contended that if the present petitioner is enlarged on bail, he would abscond and would not be available for investigation when the matter is still under investigation. It is contended by the prosecution that by considering the gravity of offence, the application of the petitioners shall be dismissed.

4. Heard the arguments. Perused the relevant materials on record.



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

1. *Whether the petitioner has made out sufficient grounds for granting anticipatory bail in his favour in Cr. No.126/2025 of Kundapura P.S., 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- Teresa Mendonsa, respondent police have registered case against the petitioner in Crime No.126/2025 for the offences punishable U/s.318(2), 318(3), 318(4) of Bharatiya Nyaya Sanhita 2023.

8. It is the case of the complainant that she is working in the business of selling products of a company called Herbal Life Nutrition, during that time, the complainant was introduced to the petitioner about 3 years ago. It is further case of the complainant that the petitioner asked the complainant for money for the expenses of the farm, assuring her to pay extra



money in addition to the amount paid, believing the petitioner the complainant has paid Rs.5,000/-, 10,000/-, 50,000/-, 90,000/-, in total 4,50,000/-. Further it is the case of the complainant that the petitioner also pledged gold chain belonged to her in the bank and obtained money and failed to repay the same by blocking her on mobile. On the said complaint, the Kundapura police have registered case against the accused persons in Crime No.126/2025.

9. The contention of petitioner is that he is innocent 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 no prima facie materials to show that the petitioner has committed the offence as narrated in the complaint. Further it is contended that the petitioner is Business Man by profession and the entire family of the petitioner depend upon his income. It is further contended that he is the permanent resident of Bidkalkatte Village of Kundapura Taluk. It is further contended that he is ready to abide by any conditions that would be imposed by this court. Therefore, the petitioner has prayed for allowing this petition.

10. Per Contra, the prosecution has submitted that the investigation is still under progress. It is further contended that if the present petitioner is enlarged on bail, he would abscond and would not be available for investigation and hence, prayed to dismiss the application.



11. It is pertinent to note that even for the sake of argument, it is accepted that there is prima-facie case against the petitioner for the offences punishable U/s. 318(2), 318(3), 318(4) of Bharatiya Nyaya Santhita 2023, the said offences are non-bailable, but not punishable with death or imprisonment for life and exclusively triable by the Magistrate.

12. 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 stage, I would like to go through the dictum of law laid down by the Hon'ble Supreme Court reported 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”.***

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 produced by the petitioner disclose that there is serious allegation against the accused and the complainant regarding monetary dispute and notice under



section 35(3) of BNSS has been issued against the petitioner. The petitioner has also produced NCR copy disclosing that the complainant had filed the complaint against him before the police prior to this complaint, wherein the police had directed them to settled the matter before civil Court. It is pertinent to note that on the base on the private complaint the FIR has been registered against the accused. The entire fact can be ascertain only after full fledged trial. Considering the said fact, 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. Further, it is important to note the custodial interrogation of petitioner is not at all required when the petitioner is ready to abide by the terms and conditions imposed by the Court and when ready to face the trial by offering adequate surety. This Court is satisfied and is of the opinion that no useful purpose will be served by allowing the respondent police to apprehend the petitioner for interrogation. 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 exists reason to believe that he may be arrested in non-bailable offences. Accordingly, I answer Point No.1 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 Bharatiya Nagarik Suraksha Sanhita, 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.126/2025 of Kundapura police station, 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. He shall give attendance before the concerned I.O. once in a month i.e., preferably on second Sunday of every month in between 10.00 a.m. and 5.00 p.m. till filing of charge sheet or further orders whichever is earlier.
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 Magistrate 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 also furnish his residential ID address proofs.

(Typed to my dictation by the Stenographer directly on Computer, corrected by me and then pronounced in open Court on this the 9<sup>th</sup> day of January, 2026)

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