

KAUP30000022026



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

DATED THIS THE 8th 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.502/2026

Petitioner	Mahammed Afzal, 23 years, S/o Mohammed Ismail, R/o #1182, Hilal Street, Magdoom Colony, Bhatkal, Uttara Kannada. (By Sri/Smt K. C. Shetty, Advocate)
	AND
Respondent	State by Byndoor Police station. (By the learned Public Prosecutor)



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

The advocate for the petitioner has filed bail petition U/s.482 of 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 Crime No.132/2025 in the interest of justice.

2. The brief facts of the bail petition is that on the basis of the information of Naveen Bhorkar, the respondent police have registered a case in Crime No.132/2025 against the petitioner and another for an offences punishable under Sections 303(2) of The Bharatiya Nyaya Sanhita 2023 and Sections 4, 5, 7, 12 of The Karnataka Prevention of Slaughter and Preservation of Cattle Ordinance, 2020, Section 11(1) (D) of Prevention of Cruelty to Animals Act 1960, Section 66, 192(A) of Indian Motor Vehicle Act and Section 100(2), 177 of The Central Motor Vehicle Rules. The petitioner is apprehending his arrest at the hands of respondent police and 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 and the case is still under investigation. Further it is contended that the owner of the car which is used for commission of offence is yet to be investigated. It is further contended that if the petitioner is released on bail, he would commit similar offence and would not be available for investigation. Further it is contended that by considering the gravity of offence, the application of the accused 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. 132/2025 of Byndoor 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-Naveen Bhorkar, the respondent police have registered case against accused in Crime No.132/2025 for the offences punishable under Sections 303(2) of The Bharatiya Nyaya Sanhita 2023, Sections 4, 5, 7, 12 of The Karnataka Prevention of Slaughter and Preservation of Cattle Ordinance, 2020, Section 11(1)(D) of Prevention of Cruelty to Animals Act 1960, Section 66, 192(A) of Indian Motor Vehicle Act and Section 100(2), 177 of The Central Motor Vehicle Rules.

8. It is the case of the complainant that on 07/07/2025 at about 5.00 p.m., on receipt of credible information, the complainant along with his staffs proceeded near Vattinene, Byndooru cross at 6.00 a.m., and on suspicion stopped one red colour Breeza Car bearing registration No.KA-47-M-8960 which was coming from Byndoor, at that time the



driver of the vehicle stopped the car and along with another person in the car fled away from the spot abandoned the said car. On inspection of the said car the police officer found that 4 cows were tied in a cruel manner and the said accused were transporting the said cows for the purpose of slaughter, for which, he has lodged the complaint against the accused before respondent police in Crime No.132/2025 of Byndoor police station.

9. The contention of petitioner is that he has been falsely implicated in the said case even though he has not committed any offences as alleged in the complaint. In the application the petitioner/accused contended that only on the basis of the statement of accused No.1 his name was mentioned in the FIR. It is further contended that the petitioner is the permanent resident of Bhatkal Taluk, Uttara kannada District and he is the only bread earner for his family. It is further contended that he is ready to abide by any conditions that would be imposed by this Court.

10. Per contra, it is submitted by the Learned Public Prosecutor 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 owner of the car which is used for commission of offence is yet to be investigated. It is further contended that if the petitioner is released on bail, he would commit similar offence and would not be available for investigation. Further it is contended that by considering the gravity of offence, the application of the accused shall be dismissed.

11. In the instant case it is important 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 under Sections 303(2) of The Bharatiya Nyaya Sanhita 2023, Sections 4, 5, 7, 12 of The Karnataka Prevention of Slaughter and Preservation of Cattle Ordinance, 2020, Section 11(1) (D) of Prevention of Cruelty to Animals Act 1960, Section 66, 192(A) of Indian Motor Vehicle Act and Section 100(2), 177 of The Central Motor Vehicle Rules are non-bailable but not punishable with death or imprisonment for life and is exclusively triable by Magistrate Court.

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”.

13. 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, FIR disclose that the police officials on the statement of the co-accused have impleaded the name of the accused in the remand application. The entire fact can be assessed only after full fledged trial. The accused No.1 is arrested and is released by the jurisdictional Court. By considering all the above facts and arguments canvased, if stringent conditions are imposed on the appearance of the petitioner/accused No.2 before the I.O./Court the purpose of prosecution objection that petitioner/accused No.2 would not appear for enquiry before I.O. and trial before Court, would be met with. At this juncture, it is important to note that 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 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 exists reason to believe that he may be arrested in non-bailable offences. Accordingly, I answer Point No.1 in the **affirmative**.

14. **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.132/2025 of Byndoor 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. 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 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 **8th day of January, 2026**)

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