

KAUP300002302026



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

DATED THIS THE 5th 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.606/2026

Petitioners	1. Arjun M, aged 26 years, Son of Murugesh N Kotturu Village, PO: Cherambane, Madikeri, Kodagu District. 2. Mithun H.S., aged 33 years, Son of Suresh H., Kadiyathor Village, Madikeri Taluk. 3. Praveen M.S., aged 38 years, Son of Sukumar M.P. Kotturu Village, PO: Cherambane, Madikeri, Kodagu District. 4. Umesh H.R., aged 33 years, Son of Raja H.A., Chowdeshwari Nagar, Ammuathi, Karmodu, Kodagu District. 5. Aseek M.A., , aged 25 years Son of Ayyappa Kadu,
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	Kotturu Village, PO: Cherambane, Madikeri, Kodagu District. 6. Ranjith H.R., aged 25 years, Son of H.R. Ramesh, Chowdamma Colony, Madikeri Taluk. (By Sri/Smt: M.M. Harish , Advocate)
	//VS//
Respondent	State by Excise Inspector, Kundapura Sub Division Kundapura. (By the learned Public Prosecutor)

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

The advocate for the petitioners has filed bail petition U/s.482 of The Bharatiya Nagarik Suraksha Sanhita, 2023, to grant anticipatory bail in favour of the petitioners and also direct the respondent police to release them on bail in the event of their arrest in Crime No.33/2025 of the respondent police 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.33/25-26 against the petitioners for an offences punishable U/s. 10, 11, 12, 14, 15, 32(1), 38(A) and 43(A) of Karnataka Excise Act. The petitioners



apprehending their arrest at the hands of respondent police. Therefore, the petitioners have constrained to file this petition to grant bail.

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 petitioners are granted bail, they would not available for investigation and might involve in committing similar offences. Further it is also contended that accused might tamper the witnesses. 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 petitioners have made out sufficient grounds for granting anticipatory bail in their 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, respondent police have registered case against the petitioners in Crime No.33/26 for the offences punishable U/s. 10, 11, 12, 14, 15, 32(1), 38(A) and 43(A) of Karnataka Excise Act, 1956.

8. It is the case of the complainant that on 20-02-2026, at 8.30 p.m. while the complainant along with staff members was patrolling received the credible information about the illegal possession of liquor and inspected the vehicles near Highway Puncture Shop, near Arehole cross, Kirimanjeshwara Village, at about 8.35 p.m., they stopped one vehicle bearing registration No.KA 12 B 8707 and inspected the said vehicle, where they found one trally bag in which kept about 7,500 liters liquor of different brands of Goa state for selling without any permit or licence. Accordingly, complainant has lodged the complaint against the petitioners before respondent police.

9. The contention of petitioners is that they are innocent of the offences alleged against them and they have not committed any such offences, as alleged in the complaint. Further contended that the petitioners being a permanent resident of Madikeri District, who have been alleged with offences in spite of their non-involvement. Per Contra, the



prosecution has submitted that unless a full-fledged investigation, the accused/petitioners cannot be considered as innocent at this point of time. Further contended that if the accused are released on bail, will not be available for investigation 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 U/s. 10, 11, 12, 14, 15, 32(1), 38(A) and 43(A) of K.E. Act which is non-bailable, but not punishable with death or imprisonment for life and exclusively triable by the Magistrate.

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 C.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, FIR produced by the petitioners discloses that the entire material has been seized and the illicit liquor found to be in small quantity, for which, custodial interrogation of accused is not required. The police Officials have seized incriminating material which is of small quantity which have been purchased according to the petitioners at Goa with valid bill including permit. The entire fact can be ascertained only after full-fledged trial, but at this juncture, there is an apprehension that they would be arrested for having committed the alleged offences. The petitioners are ready to furnish valid surety for which if stringent conditions are imposed for the purpose of prosecution objection would be met with. Considering the all the facts and circumstances that the petitioners are permanent resident of Madikeri District and when ready to abide by the conditions imposed on them, are entitled for anticipatory bail as prayed. On considering the nature of offences alleged, personal liberty of the petitioners and quantity of liquor seized, this Court finds that it is just and proper to grant bail to the petitioners and 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 petitioners U/s. 482 of The Bharatiya Nagarik Suraksha Sanhita, 2023 is hereby allowed.

The petitioners are ordered to be released on bail on their executing personal bonds for Rs.1,00,000/- each with one surety for like sum to the satisfaction of the concerned I.O./Magistrate in the event of their arrest in the case in Kundapura Sub Division Excise Crime No. 33/2025-26, subject to following conditions:

1.The petitioners shall make themselves available for interrogation by the I.O. as and when required till the final report is filed.

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

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



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

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

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

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

9.They shall furnish their 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 **5th day of June , 2026**)

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