

KAVN010012212026



Presented on : 19-02-2026
Registered on : 19-02-2026
Decided on : 06-03-2026
Duration : 17 Days

**IN THE COURT OF THE PRINCIPAL DISTRICT &
SESSIONS JUDGE, VIJAYANAGARA DISTRICT,
HOSAPETE**

Present

Sri.K.M.Rajashekar, B.Sc., LL.M.
Principal District & Sessions Judge, Vijayanagara
District, Hosapete.

Crl.Misc.Case No.133 of 2026

Dated this the 6th day of March 2026

Petitioners: A1 and 2.

K. Nagaraja S/o Hanumanthappa
Age: 28 years, Driver,
R/o. 3rd Ward, Rajiv Nagasra, Kottur Town, Vijayanagara
Dist.

2: H. Parashuram s/o Hanumanthappa Age: 28
R/o. 3rd Ward, Rajiv Nagasra

(Rep. by Sri. K.Basavaraj. - Advocate)

-V/s-

Respondent:

State by: PSI, H.B.Halli P.S.
Vijayanagara Dist.

(Represented by Public Prosecutor).

ORDERS ON BAIL APPLICATION

This Criminal petition filed by the petitioner/accused No.1 and 2 U/sec. 482 of BNSS Act (Old 438 of Cr.PC) Seeking anticipatory bail in H.B.Halli P.S Crime No.9/2026 for offences punishable u/sec. 3, 7 of Essential Commodities Act, 1955.

2. The allegations are that, on 04.02.2026 at about 5.05 AM, at outskirts of Hampapattana village, in the public road situate before Grama Panchayat Office, accused No.1 and 2 found waiting with rice loaded vehicle Bulero pick up No.K.A.22/C-4226 containing 65 bags of rice worth Rs.61,650/- , by purchasing the said rice meant for the public distribution system and other government schemes, rebagged it for their own profit and transported it with the intention of selling fraudulently at a higher price in the black market. CW.1 along with his staff and panchas conducted raid and seized said rice and vehicle which is used for transporting rice.

3. The petitioners-accused No.1 and 2 specifically contended that they are innocent of the charges leveled against them, they have not committed any alleged offences. The petitioners are neither directly nor indirectly involved or abetted the offence. The alleged offences are not punishable with death or imprisonment for life. The petitioners are not an influential person who could tamper with the prosecution witnesses. There is no chance of their absconding, if they are let on bail as they are the permanent residents of given address. The petitioners are deeply rooted in the society and they are law-abiding citizen. They hail from respectable family having movable and immovable properties in their native place. Further, they are the only earning member of their family. The petitioners apprehend their arrest by the respondent police. They are ready and willing to abide by any conditions. Therefore, the petitioners pray for grant of anticipatory bail.

4. The learned Public Prosecutor has opposed the

bail application by filing objections contending that the petition is not maintainable either in law or on facts. The petitioners have not made out any grounds to grant bail. There is a prima-facie case against the accused regarding the alleged offences. The investigation of the case is not yet completed and charge sheet has to be filed. If the petitioners are granted anticipatory bail, there is likelihood of absconding and tampering the prosecution witnesses. The accused may not be available for trial, that may hamper the trial of the case. Therefore, prays for rejection of the bail application.

5. Heard the arguments of both sides.

6. That on the above said facts, the following points arise for my determination are:-

1. Whether the petitioners have made out sufficient grounds for granting anticipatory bail under Section 482 of BNSS, 2023 (438 of Cr.P.C)?

2. What order?

7. My findings on 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 :- Upon going through materials on record, it is seen that, petitioners-accused have approached the Court U/sec. 482 of BNSS Act (Old 438 of Cr.PC) Seeking anticipatory bail in H.B,.P.S. Crime No.9/2026, for offences punishable u/sec 3, 7 of Essential Commodities Act, 1955.

9. The learned Counsel for the petitioners vehemently argued that, accused person never committed the alleged offence. They are deeply rooted in the society and they are law-abiding citizen. They hail from respectable family having movable and immovable properties in their native place. Further, they are the only earning member of their family.

10. The learned Public Prosecutor vehemently argued that the alleged offences are heinous in nature, the investigation is not yet completed and charge sheet

has to be filed. At this juncture, if the petitioners-accused released on bail, they will definitely tamper the prosecution witnesses, and there is chance of repetition of similar offences and may not be available for trial and sought for dismissal of the petition.

11. Upon going through the materials available on record, the allegations against the accused are punishable u/sec. u/sec 3, 7 of Essential Commodities Act, 1955, During raid, accused No.1 is under police custody, but the respondent police without obtaining any surety or bonds, left the accused and gave notice U/s.35(3) of BNSS. The offences are neither punishable with death or imprisonment for life, moreover triable by JMFC court. The permanent residence of the petitioners in the given address is not in dispute. The Judgment of Hon'ble Supreme Court reported in **2014(3) KCCR 1977 (SC) between Arnesh Kumar Vs., State of Bihar and another, wherein their Lordships** was pleased to

hold as under:

“Arrest brings humiliation, curtails freedom and cast scars forever. Law-makers know it so also the police. There is a battle between the lawmakers and the police and it seems that police has not learnt its lesson; the lesson implicit and embodied in the Cr.P.C. It has not come out of its colonial image despite six decades of independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasized time and again by Courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive.”

The Judgment of Hon’ble Supreme Court is squarely applicable to the case on hand. Under the facts and circumstances of this case, I am of the opinion that as all the offences are triable by Magistrate and neither punishable with death or imprisonment for life, these accused are entitle for bail on stringent conditions. The apprehension of the prosecution regarding the non-availability for trial, tampering witnesses etc., could be easily met with by imposing appropriate stringent conditions. Accordingly, Point No.1 is answered in the Affirmative.

12. Point No.2: In the light of above discussions, I proceed to pass the following:

ORDER

The petition filed by the petitioners-accused No.1 and 2 under Section 482 of BNSS, is allowed.

In the event of their arrest by the respondent police in Crime No. 9/2026, the petitioners-accused shall be enlarged on bail on execution of personal bond for a sum of Rs.50,000/- (fifty thousand) each along with one surety for the likesum subject to following.

CONDITIONS

- 1) The petitioners-accused No.1 and 2 shall surrender before the Investigating Officer within 10 days from the date of this order.
- 2) They shall not tamper with the prosecution evidence or witnesses in any manner and shall cooperate with investigating officer.
- 3) They shall not commit similar offences in future.
- 4) They shall mark attendance before the I.O

on every Monday between 10 to 11 AM till further orders. They shall attend the court regularly on all hearing dates without fail.

(Dictated to the judgment writer directly on computer. Script thereof is corrected and then pronounced by me in the open court on this the 6th Day of March, 2026).

(K.M.RAJASHEKAR)
Principal District & Sessions Judge,
Vijayanagara District, Hosapete.