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**IN THE COURT OF THE DISTRICT AND SESSIONS
JUDGE, YADGIRI**

Dated this the **23rd day of May, 2025**

PRESENT

**Smt. B.S. REKHA, B.A.LAW., LL.M.,
District and Sessions Judge,
Yadgiri.**

CRIMINAL MISCELLANEOUS No.283/2025

Petitioner/Accused:

Mallappa,
S/o Nagappa Talakayar,
Age: 45 years,
Occ: Coolie,
R/o: Hanuman Nagar,
Tq & Dist: Yadgiri.

(By Sri,S S Patil., Advocate)

Vs.

Respondent:

State by Excise Department,
Shahapur Sub-Division,
Range Yadgir.

(By Public Prosecutor, Yadgiri)

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ORDER

This petition is filed by the petitioner/accused under
Section 482 of the BNSS, seeking anticipatory bail

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apprehending his arrest in FIR No.30/2024-25/3303IE/330303, registered by the respondent-Excise Department, for the offences punishable under Sections 10, 11, 12, 32(1) of the Karnataka Excise Act.

2) In the petition, the petitioner contended that he is innocent, he has not committed any offences alleged against him, the officials of the respondent Excise Department are frequently visiting his house and enquiring his whereabouts and he reasonably apprehends his arrest by the officials of the respondent Excise Department on the accusation of the non-bailable offences and he is ready to abide by the conditions that may be imposed by this Court and prayed for granting anticipatory bail.

3) The learned Public Prosecutor opposed the petition by filing objection and contended that the materials collected so far by the I.O. during the course of investigation and the contents of the FIR prima-facie reveals, that the petitioner has committed the alleged offences, which are serious in nature, there are no good grounds to allow this

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petition, the investigation is in progress and at this stage, if the anticipatory bail is granted to him, he may abscond, he may commit similar offence, he may hamper the investigation and tamper the prosecution witnesses and hence, prayed for rejecting the anticipatory bail petition.

4) Heard the arguments of learned counsel for the petitioner/accused and the learned Public Prosecutor.

5) The following points arise for my determination:

1. Whether the petitioner/accused has made out good grounds for an order of anticipatory bail?
2. What order?

6) My findings on the above points are as follows:

Point No.1: In the Affirmative.

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

REASONS

7) **POINT No.1:** Excise Department, Shahapur Sub-Division, Range Yadgiri, registered a case in FIR No.30/2024-25/3303IE/330303 , against the petitioner/accused, alleging



the offences punishable under Sections 10, 11, 12, 32(1), of the Karnataka Excise Act.

8) In this case, the complainant is none other than the Excise Inspector of Excise Department, Shahapur Sub-Division, Range Yadgiri and based on the report submitted by him, the aforesaid case is registered.

9) In the report (complaint), it is alleged, that on 26-04-2025 at 01.15 p.m, at the instructions of higher officer, when informant along-with his team all are at on duty at Gunj area, Yadgir, they received credible information that two person carrying the two plastic bags on their head then they stopped the two persons and search the same, the each bag contain illicit-toddy mentioned in Col.No.7(1) of the FIR. Thereafter, informant and his team, conducted mahazar, brought the said toddy to their office and registered the case against the accused and thereby the petitioner filed this petition.

10) The learned counsel for the petitioner argued that on going through the records, it clearly goes to show



that, a false case has been foisted against the petitioner and the officials of the respondent Excise Department are frequently visiting his house and enquiring his whereabouts and he reasonably apprehends his arrest by the respondent police on the accusation of the non-bailable offences, he is ready to abide by the conditions that may be imposed by this Court and hence, prayed for granting anticipatory bail.

11) The learned Public Prosecutor vehemently argued that the accused/petitioner without any valid permit or license, found selling the seized toddy by transporting, the offence alleged against the petitioner is punishable with imprisonment, which may extend to 5 years. There are no good grounds to allow this petition and the investigation is in progress. At this stage, if the accused is released on bail, he may abscond, he may commit similar offences, he may hamper the investigation and tamper the prosecution witnesses and hence, prayed for rejecting the bail application.

12) The petitioner has produced the copy of FIR



along with report. The learned public prosecutor has produced the copy of case diary.

13) The offences alleged against the petitioner/accused are non-bailable offences, his presence is not required for further investigation and the offences alleged are exclusively triable by the Magistrate. Moreover, the allegations levelled against the petitioner/accused are all question of facts, which needs to be proved by the prosecution at the time of full fledged trial. Furthermore, the accused/petitioner is the permanent resident of address shown in the cause title and he is having movable and immovable properties and he is ready to abide by the conditions that may be imposed by this Court. The apprehension of the prosecution is that if the anticipatory bail is granted, the petitioner may abscond, he may hamper the investigation and tamper the prosecution witnesses. The aforesaid apprehensions of the prosecution, could be meted out by imposing certain conditions. Therefore, this is a fit case to grant anticipatory bail. With these observations, I

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answer point No.1 in the ***Affirmative.***

14) POINT No.2:-In view of my findings on point No.1, I proceed to pass the following:

ORDER

The petition filed by the petitioner/accused under Section 482 of BNSS., is hereby allowed.

The petitioner/accused is ordered to be released on bail on executing personal bond for Rs.50,000/- with one surety for the like-sum in the event of his arrest by the respondent Excise Department in FIR No.30/2024-25/3303IE/330303 , subject to the following conditions;

- 1.** The petitioner/accused shall surrender before the I.O. within three weeks from today and on such surrender, he shall be arrested in FIR No. 30/2024-25/3303IE/330303 of respondent Excise Department, interrogated if necessary, information and documents if any be secured and thereafter be released on bail subject to the execution of bond as aforesaid.
- 2.** The petitioner /accused shall not

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abscond or destroy the evidence or threaten the witnesses and shall appear before the I.O. as and when required.

3. The petitioner /accused shall mark his attendance before the concerned Excise Department once in 3 weeks preferably on Sunday between 10-00 a.m. and 6-00 p.m. till filing of the final report.

(Dictated to the Stenographer Grade-III directly on computer, corrected it, taken out print, signed and then pronounced by me in the open Court on **23rd day of May, 2025**)

(B.S.Rekha)
District and Sessions Judge,
Yadgiri.