



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 5800 OF 2026

BETWEEN:

ARVIND KUMAR R.,
MANAGING DIRECTOR OF
M/S. VIRTUE INFRA BUILDERS PVT. LTD.,
S/O RAMESH A.,
AGED ABOUT 28 YEARS,
OFF/AT NO. 878 AND 879, 3RD FLOOR,
SLV TOWERS, J.P.NAGAR 3RD PHASE,
BENGALURU – 560 078.

...PETITIONER

(BY SMT.HARSHITHA, ADVOCATE A/W
SRI PARAMESH KUMAR H.K., ADVOCATE FOR
SRI S.JAGAN BABU., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY J.P.NAGAR POLICE STATION
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA
BENGALURU – 560 001.
2. ASHA N.,
W/O RAMESH,
AGED ABOUT 73 YEARS,
RESIDENT OF NO. 959,





MAHALAKSHMIPURA WARD,
RAJAJINAGAR
BENGALURU – 560 010

...RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP A/W
SRI ANOOP KUMAR, HCGP FOR R-1)

THIS CRL.P FILED U/S 482 OF CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE ORDER DATED: 09/04/2026 PASSED IN CRIME NO. 261/2026 PASSED BY PRINCIPAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 313, 316, 318, 322, 111, 112, 113, 334, 335, 336, 334, 61, 3(5) ALONG WITH RERA ACT, PMLA ACT, BUDS ACT, KPID ACT.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner, accused in Crime No.261 of 2025, is at the doors of this Court calling in question an order of the concerned Court dated 09-04-2026 granting police custody of the accused for a period of 14 days, in the teeth of the subsistence of anticipatory bail.



2. Heard Smt Harshitha, learned counsel along with Sri Paramesh Kumar H.K, learned counsel appearing for petitioner and Sri B N. Jagadeesha, learned Additional State Public Prosecutor appearing for respondent No.1.

3. Facts in brief, germane, are as follows:

A complaint comes to be registered by the 2nd respondent before the jurisdictional police on 25-11-2025, which becomes a crime in Crime No.261 of 2025 for offences punishable under Sections 149 and 420 of the IPC. Apprehending arrest, the petitioner approaches the concerned Court i.e., Court of Sessions in Crl.Misc.No.9878 of 2025 seeking anticipatory bail. The concerned Court, by a detailed order dated 16-12-2025 grants anticipatory bail, narrating the complete facts that are obtaining towards registration of the complaint , which narrated offences punishable under Sections 316(2) and 318(4) of the BNS. The concerned Court observes, that no case is yet registered against the petitioner, though the case had already been registered in Crime No.261 of 2025, but grants anticipatory bail by the following order:



"....

11. It is true that no any case is registered against the Petitioners on the alleged apprehension expressed by Petitioners in the petition averments. The registration of FIR is not a condition precedent while considering the anticipatory bail petition. While considering the anticipatory bail petition, the only requirement is that Petitioners must make out a case of reasonable apprehension of being arrested in the case. In the decision reported **(1980) 2 S.C.C. page No.565 (Gurubhaksh Singh Sibbia & Others Vs State of Punjab)**, it has been observed and held that the filing of an F.I.R. is not condition precedent to the exercise of power under Section of 438 of Cr.P.C. The same principle has been reiterated by the Hon'ble Supreme Court of India in the reported decision in **(2011) 1 S.C.C page No.694 (Siddaram Sathlingappa Mhetre Vs State of Maharashtra & others)** In the present case, the prosecution has stated in the objections that another case was registered against the Petitioners in J.P. Nagar Police Station and the Petitioners have cheated the general public. The said apprehension in view of the above stated facts cannot be said as unreasonable. Therefore, under these circumstances, in my opinion, the Petitioner have made out sufficient ground of reasonable apprehension of being arrested and as such, the Petitioners are entitled for anticipatory bail. Consequently, point No.1 for determination is answered in the **Affirmative**.

12. **Point No.2:** In the result, this Court proceeds to pass the following:

ORDER

The petition filed by Petitioners under Section 482 Bharatiya Nagarika Suraksha Sanhita, 2023 is hereby allowed.

The Petitioners are ordered to be released on anticipatory bail in the event of their arrest by the Respondent-Police Station Bengaluru, on their executing personal bond for a sum of Rs.2,00,000/-each with one surety for the like-sum amount, subject to following conditions ;



1. The Petitioners shall appear before the SHO as and when directed and co-operate for investigation,
2. They shall not threaten the prosecution witnesses directly or indirectly.
3. They shall not indulge in any criminal activities.

This bail order shall be in force for a period of 9 months from the date of this order."

The anticipatory bail so granted, was in subsistence for a period of 9 months. During the subsistence of the anticipatory bail, permission is sought from the hands of the concerned Court to add offences under the KPIDFE Act. Permission was granted to add Section 9 of the KPIDFE Act, on 27-01-2026 by the following order:

"The requisition filed by the Investigating Officer is hereby allowed.

Permission is granted to invoke Section 9 of the Karnataka Protection of Interest of Depositors in Financial Establishments Act, 2004 and to proceed with further investigation in accordance with law."

While there can be no qualm about the said order, what happens later is quite disturbing. On 09-04-2026, 3 months after the said inclusion, a remand application is made before



the concerned Court, the very Court that had granted anticipatory bail and had permitted inclusion of Section 9 of the KPIDFE Act seeking police custody for the purpose of investigation.

4. The concerned Court, now permits police custody of the petitioner for a period of 14 days, notwithstanding the subsistence of the anticipatory bail. The order of the concerned Court suffers from gross procedural aberration. Mere inclusion of an offence would not mean that the order granting anticipatory bail will vanish in thin air, as once anticipatory bail is granted, it can be cancelled by an application filed after hearing the parties before the same Court or before any superior Court alleging any violation of the conditions of anticipatory bail. None of these things have happened.

5. For the mere asking in the remand application, completely ignoring the subsistence of the anticipatory bail, the concerned Court grants police custody of the accused. It is this aberration in procedure that troubles this Court. It may be that BUDS Act or KPIDFE Act is included as offence in Crime



No.261 of 2025. Crime No.261 of 2025 was registered on 25-11-2025 after which an anticipatory bail was granted on the fulcrum of the case that was registered, on an apprehension that the petitioner would be arrested. The said order was in subsistence for a period of 9 months.

6. While in subsistence, merely because BUDS Act or KPIDFE Act was invoked, the concerned Court could not have blissfully ignored its own order granting anticipatory bail to the petitioner. Anticipatory bail, by its nature itself, is in anticipation or apprehension of arrest, whether crime is registered or is to be registered. In the light of the subsistence of the anticipatory bail, petitioner having been handed over to the police custody on a remand application is, on the face of it, illegal. In this regard, it becomes apposite to refer to the judgment of the Five Judge bench of the Apex Court in the case of **SUSHILA AGGARWAL v. STATE (NCT OF DELHI)**¹, wherein the Apex Court holds as follows:

" "

¹(2020) 5 SCC 1



HC-KAR

NC: 2026:KHC:20208
CRL.P No. 5800 of 2026

80. Earlier, in the decision in *Dolat Ram v. State of Haryana* [*Dolat Ram v. State of Haryana*, (1995) 1 SCC 349 : 1995 SCC (Cri) 237] this Court had observed that : (SCC p. 351, para 4)

"4. ... bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial."

81. This decision was followed, and its *ratio* applied, in *Hazari Lal Das v. State of W.B.* [*Hazari Lal Das v. State of W.B.*, (2009) 10 SCC 652 : (2010) 1 SCC (Cri) 381] The decision in *Bhadresh Bipinbhai Sheth v. State of Gujarat* [*Bhadresh Bipinbhai Sheth v. State of Gujarat*, (2016) 1 SCC 152 : (2016) 1 SCC (Cri) 240] stated, after culling out the principles in *Mhetre* [*SiddharamSatlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514] , as follows : (*Bhadresh case* [*Bhadresh Bipinbhai Sheth v. State of Gujarat*, (2016) 1 SCC 152 : (2016) 1 SCC (Cri) 240] , SCC p. 167, para 25)

"25.6. It is a settled legal position that the court which grants the bail also has the power to cancel it. The discretion of grant or cancellation of bail can be exercised either at the instance of the accused, the Public Prosecutor or the complainant, on finding new material or circumstances at any point of time.

25.7. In pursuance of the order of the Court of Session or the High Court, once the accused is released on anticipatory bail by the trial court, then it would be unreasonable to compel the accused to surrender before the trial court and again apply for regular bail.

25.8. Discretion vested in the court in all matters should be exercised with care and circumspection depending upon the facts and



HC-KAR

NC: 2026:KHC:20208
CRL.P No. 5800 of 2026

circumstances justifying its exercise. Similarly, the discretion vested with the court under Section 438 CrPC should also be exercised with caution and prudence. It is unnecessary to travel beyond it and subject the wide power and discretion conferred by the legislature to a rigorous code of self-imposed limitations.

25.9. No inflexible guidelines or straitjacket formula can be provided for grant or refusal of the anticipatory bail because all circumstances and situations of future cannot be clearly visualised for the grant or refusal of anticipatory bail. **In consonance with legislative intention, the grant or refusal of anticipatory bail should necessarily depend on the facts and circumstances of each case."**

82. The three-Judge Bench decision in *Sudhir v. State of Maharashtra* [*Sudhir v. State of Maharashtra*, (2016) 1 SCC 146 : (2016) 1 SCC (Cri) 234 : (2016) 1 SCC (L&S) 48] noticed the decision in *Bhadresh Bipinbhai Sheth* [*Bhadresh Bipinbhai Sheth v. State of Gujarat*, (2016) 1 SCC 152 : (2016) 1 SCC (Cri) 240] and did not disapprove it. However, the Court did not grant relief, given that anticipatory bail was declined initially, and the application to the High Court was withdrawn, after which a second anticipatory bail was granted. The High Court cancelled *the grant of relief*. This Court affirmed the High Court's view [*Ramesh Manik Patil v. State of Maharashtra*, 2015 SCC OnLine Bom 4994] . In that judgment, *Bhadresh Bipinbhai Sheth* [*Bhadresh Bipinbhai Sheth v. State of Gujarat*, (2016) 1 SCC 152 : (2016) 1 SCC (Cri) 240] was noticed, while considering the scope of the power under Section 439(2). **In another decision, Arvind Tiwary v. State of Bihar** [*Arvind Tiwary v. State of Bihar*, (2018) 8 SCC 475 : (2018) 3 SCC (Cri) 590] the issue was whether the anticipatory bail, granted subject to certain conditions, earlier, which had been considered by this Court, could be cancelled. The conditions included, inter alia, that sums were to be secured by bank guarantee. The aggrieved corporation directed that the "defalcated sum" specified in respect of every accused should be secured through such



guarantee. Upon failure to comply with that demand, an order of cancellation was sought. This Court held that cancellation could not be resorted to on the assumption that the applicants were guilty. Similarly, in *Chand Nath Yogi v. State of Haryana* [*Chand Nath Yogi v. State of Haryana*, (2003) 1 SCC 326 : 2003 SCC (Cri) 312] , *Padmakar Tukaram Bhavnagare v. State of Maharashtra* [*Padmakar Tukaram Bhavnagare v. State of Maharashtra*, (2012) 13 SCC 720 : (2012) 4 SCC (Cri) 393] , *X v. State of Telangana* [*X v. State of Telangana*, (2018) 16 SCC 511 : (2020) 1 SCC (Cri) 902] , and several other judgments the same views were expressed.

83. Therefore, unless circumstances to the contrary : in the form of behaviour of the accused suggestive of his fleeing from justice, or evading the authority or jurisdiction of the court, or his intimidating witnesses, or trying to intimidate them, or violate any condition imposed while granting anticipatory bail, the law does not require the person to surrender to the court upon summons for trial being served on him. Subject to compliance with the conditions imposed, the anticipatory bail given to a person, can continue till end of the trial. This answers Question 2 referred to the present Bench."

(Emphasis supplied)

The Apex court clearly holds that anticipatory bail once granted, would be deemed to be in operation, notwithstanding the filing of the charge sheet even, unless, there is any supervening circumstance that leads to cancellation of the said anticipatory bail, on an application by the prosecution or by a petition before the superior Court. Till such a situation ensues, the anticipatory bail remains in force and when it remains in



force, the Court cannot grant police custody of the accused. The concerned Court thus, has blissfully ignored the procedure, by turning it topsy-turvy. In that light, this is rendered unsustainable. Legal unsustainability of the said order would necessarily lead to its obliteration.

7. It is another fact that this factor of grant of anticipatory bail is neither brought to the notice of the prosecution at the time of arrest that it is the very Court that had granted anticipatory bail. It was always open to the prosecution to file an application seeking cancellation of the said bail and order to be made on merits, if the offence was so grave and the accused was necessary for interrogation by police.

8. Learned Additional State Public Prosecutor Sri B N Jagadeesha submits that Section 9 of the KPIDFE Act clearly bars grant of anticipatory bail. While that may be the fact, but the KPIDFE Act is added or inserted later by the permission of the Court, not when the crime is registered and the anticipatory bail was granted. An addition of an offence to the FIR later



would not mean that anticipatory bail would lose its efficacy. Therefore, it was for the prosecution to get the bail cancelled in accordance with law, if they so desire and then file a remand application seeking police custody.

9. The corollary of the aforesaid procedural aberration is, the petitioner being handed over to police custody to be released forthwith.

10. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) The order dated 09-04-2026 on remand application, granting police custody for a period of 14 days till 22-04-2026 stands quashed.
- (iii) Petitioner shall be released from police custody forthwith.



- (iv) Liberty is reserved to the respondent-State, to act in accordance with law, bearing in mind the observations made in the course of the order.
- (v) In the event any application of such cancellation is made before the concerned Court by the respondent-State, the concerned Court shall bear in mind the observations made regarding the offence under the KPIDFE Act, in the course of the order, and hear the accused and then pass necessary orders, in accordance with law.

Ordered accordingly.

Sd/-
(M.NAGAPRASANNA)
JUDGE

BKP
List No.: 1 Sl No.: 1