

**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL PETITION NO. 200258 OF 2026

(439(Cr.PC)/483 (BNSS))

BETWEEN:

IMTIYAZ PATEL
S/O MAHIBUB PATEL
AGED ABOUT 33 YEARS
OCC: MECHANIC
R/A WARD NO.34, RAHIM NAGAR
HORTI PLOT, VIJAYAPURA-586102

...PETITIONER

(BY SRI. SHYAM SUNDAR SR. COUNSEL FOR
SMT. LAKSHMIKANTH G., ADVOCATE)

AND:

STATE OF KARNATAKA
BY GANDHI CHOWK P.S.
REPRESENTED BY
ADDL. STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
KALABURAGI BENCH
KALABURAGI-585103.

...RESPONDENT

(BY SRI. JAMADAR SHAHABUDDIN, HCGP;
SRI. S S MAMADAPUR ADV., FOR APPLICANT/COMPLAINANT)

THIS CRL.P IS FILED U/SEC. 483 OF BNSS (NEW),
PRAYING TO RELEASE HIM ON REGULAR BAIL ON SC
NO.164/2025 (CRIME NO.142/2025 FO GANDHI CHOWK P.S.
VIJAYAURA) FOR THE OFFENCES P/U/S P/U/S 103, 351(3) R/W
3(5) OF BNS, 2023, WHICH IS NOW PENDING BEFORE THE
HONOURABLE II ADDL. DISTRICT AND SESSIONS AND

SPECIAL JUDGE, VIJAYAPURA ON SUCH TERMS AND CONDITIONS, IN THE INTEREST OF JUSTICE.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 18.03.2026, COMING ON FOR "PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT MADE THE FOLLOWING:

CAV ORDER

1. The petitioner who is accused no.1 in SC No.164 of 2025, has preferred this petition under Section 483 of BNSS-2023, for grant of bail in Crime No.142/2025 of Gandhi Chowk Police Station for the offences p/u/s 103, 351(3) r/w 3(5) of BNS, 2023, which is now pending before the II Additional District & Sessions and Special Judge, Vijayapura whereby the bail petition in crl.misc.no.1624/2025 came to be dismissed on 09.12.2025.

2. The prosecution case arises out of a monetary dispute between the deceased Faisal and accused No.1, Imtiyaz. On 9th July 2025 at about 3:30 PM, Faisal, along with his relative Yasin Inamdar, went to the garage of accused No.1 to demand repayment. It is alleged that accused No.1, along with the present petitioners, wrongfully restrained Faisal and assaulted him using a knife (khanjar) and a baseball bat, resulting in his death. A complaint was lodged, and Crime No.142 of 2025 was registered for offences including murder. After investigation, a

charge-sheet was filed against all accused. The complainant is cited as CW1, and CWs 12 to 20 are eye-witnesses. The postmortem report states that the cause of death was haemorrhage and shock due to sharp weapon injuries to vital organs, and the injuries were antemortem in nature.

SUBMISSIONS ON BEHALF OF ACCUSED/PETITIONER

3. Sri Shyam Sundar, learned Senior Counsel appearing for Sri Lakshmikant G, Advocate for the petitioner would submit that the petitioner is absolutely innocent and has been fixed in the case falsely for the reasons best known to the complainant-Police. Petitioner has got valid and tenable defence in the case, and he can prove his innocence and the above case is just intended to harass him. The petitioner has not committed any offence, much less the offence alleged, and he is in no way involved in any criminal act and yet the complainant-Police has falsely implicated the petitioner.

4. It is submitted that from a reading of the complainant, it is evident that the complainant-Police have falsely registered the alleged offences against the petitioner only to harass him. Upon perusal of the entire material, the basic ingredient to constitute the alleged offence under Section 302 of IPC, is not found.

5. Learned Senior Counsel submits that a perusal of the entire charge-sheet material makes it clear that there is no motive, intention or preparation to commit to the murder of the deceased. The allegations in the charge-sheet, even if taken at its face value, do not constitute the offence alleged against the petitioner. It is submitted that the entire incident, as per prosecution's own narrative, was initiated by the deceased and his associates. It is an admitted fact that a group of at least eight individuals came to the petitioner's place of business armed with deadly weapons, seeking a confrontation after having threatened the petitioner over the telephone. They were the aggressors and the petitioner was merely defending himself. That the action of the petitioner fall squarely within the ambit of the 'right of private defence of person and property' as provided under the law. The petitioner and the co-accused were outnumbered and were fleeing for their lives from an armed mob. When the deceased chased them, the petitioner had reasonable and imminent apprehension of grievous hurt or death, compelling him to act in self-defence. There was absolutely no pre-meditation or intention on the part of the petitioner to commit the alleged offence. The petitioner was at his own service station when the aggressors arrived. The fact that the petitioner and others were running away from

the scene clearly demonstrates their lack of intention to engage in fight, let alone commit murder. On 10th July, 2025, the investigating officer recorded the statements of CWs12 to 20 under section 180 of BNSS-2023, who are alleged to be the eye-witnesses to the incident. However, the very same investigating officer registered a separate FIR in Crime No.148 of 2025 against CW20, CW14, CW13, CW16, CW19 and CW15 for offence punishable under Sections 189(2), 191(2), 191(3), 109, 190 of BNS-2023 on 21st July 2025 for attempting to commit murder of the petitioner. This inexplicable delay of eleven days in registering the FIR against aggressors who were supposedly present and whose statements were recorded on 10th July 2025, casts serious doubt on the credibility and impartiality of the investigation and the veracity of the statements of the so-called eye-witnesses.

6. It is further submitted that the petitioners assaulted the deceased with khanjar, which was available with him, is highly improbable and lacks credibility, especially considering the fact that the petitioner was allegedly running to escape from the armed mob. It is far more probable that the petitioner, in the exercise of his right to private defence, might have used a weapon carried by the deceased or his associates given that the

prosecution itself asserts that the deceased's party came to the spot armed with deadly weapons with an intention to commit murder of the petitioner. The failure of the respondent-Police to recover any weapon from the spot that was allegedly carried by the deceased or his party, further strengthens the inference and weakens the prosecution narrative.

7. It is further submitted that the Court was not pleased to grant bail to accused 2 and 3 in the present case in Criminal Petition No.201927 of 2025 vide order dated 10th December 2025. There is no concept of negative parity in Bail jurisprudence and that parity cannot be applied negatively and it may only be applied positively for grant of bail to similarly placed accused. The petitioner's case must be considered on its own merits, independent of the outcome for co-accused.

8. Learned Senior Counsel would further submit that there are no reasonable grounds to believe that the petitioner has been guilty of alleged offences, exclusively punishable death or imprisonment for life. Petitioner is in custody since the date of his arrest, that is 10th July 2025, and that he is not required for further investigation in the said case and charge-sheet has been filed on 04th September 2025. The further detention of the petitioner in custody will amount to pre-trial punishment.

9. Learned Senior Counsel would further submit that petitioner is suffering from a severe and debilitating medical condition involving the generative changes of the lumbar spine which poses a significant threat to his health and well-being. The MRI report dated 13th March, 2025, clearly substantiates the gravity of element. MRI report reveals multiple critical findings, including disc desiccation multiple levels, diffuse disc bulge, indenting the ventral, thecal sac and most alarmingly mild neural foramina on the left side at L4-L5 level, which is causing mild compression of the left exiting Nerve roots. This nerve compression is a serious medical issue that can lead to chronic debilitating pain, paraesthesia, and potential long-term or permanent neurological deficit if not addressed with specialised medical intervention. He would also submit that the medical facilities available within the prison are inadequate and not equipped to manage or treat such a complex and progressive spinal condition. The petitioner requires constant monitoring by specialists such as orthopaedic, surgeon or neurosurgeon, a regimen of specialised physiotherapy and potentially advanced surgical intervention. Denial of such essential medical care in custody, violating petitioner's fundamental right to health under Article 21 of the Constitution of India. The continued detention of the petitioner in his current medical state poses an imminent and

grave risk to his life and limb. The progressive nature of degenerative, spinal disease, necessitates immediate and specialised medical attention to prevent permanent disability. The clinical correlation suggested in the report the urgency for the petitioner to be evaluated by specialists to formulate a comprehensive treatment plan, and possibility while he remains incarcerated. The learned Council has also produced the MRI Lumbosacral screening Report vide Annexure-E. Hence, he sought for allowing the petition. To substantiate his arguments, the learned Counsel would place reliance on the following judgments:

1. SAYEED VAJEED v. STATE OF KARNATAKA 2023(4) KCCR 3089; AND
2. MOHAMMED FISAL @ FAISAL v. THE STATE OF KARNATAKA RENDERED IN CRIMINAL PETITION NUMBER 4976 OF 2015, DECIDED ON 26TH NOVEMBER 2015.

10. Before going to the contents of the chargesheet, let us know what the bail concept is all about. The concept of **bail** originated in medieval English Common Law as a mechanism to balance the authority of the Crown with individual liberty. The term is derived from the Old French "*baillier*" (to deliver), the Mughal history has vivid mentions of bail, often

called *Zamanat* or *Muchalka* and Latin "*bajulare*" (to bear a burden), reflecting the idea of releasing an accused person into the custody of sureties who undertake to produce them before the court. In early England, Sheriffs exercised the power to release accused persons on pledges, but misuse of this power led to reforms through instruments like the Magna Carta and the Habeas Corpus Act, 1679, which safeguarded personal liberty. **Bail** may be defined as the temporary release of an accused person from custody, upon furnishing a bond or surety, with the condition that they will appear before the court as required. This principle has been incorporated into modern legal systems, including India under the Code of Criminal Procedure, 1973.

11. There is no specific definition of the term "bail" in the Code of Criminal Procedure, 1973, though offences are classified as *bailable* and *non-bailable*. Section 2(a) of Cr.PC defines **bailable offence** as one which is shown as bailable in the First Schedule or made bailable by any other law for the time being in force; while a **non-bailable offence** means any other offence. While deciding bail applications, courts are not required to undertake a detailed examination of evidence or conduct a meticulous analysis of the merits of the case.

However, the court must be satisfied that a **prima facie case** exists against the accused. The discretion to grant bail must be exercised judiciously and not in a routine or mechanical manner.

12. Further, it is essential that courts record **reasons** while granting bail, especially in cases involving serious offences, to demonstrate proper application of mind. The court must consider several relevant factors, including: (i) the nature and gravity of the accusation, the severity of punishment in case of conviction, and the nature of supporting evidence; (ii) the likelihood of the accused tampering with evidence or threatening witnesses or the complainant; and (iii) the prima facie satisfaction of the court regarding the charge. Any bail order passed without due consideration of these factors and without recording reasons is liable to be set aside for **non-application of mind**, as emphasized by judicial precedents.

13. Having this basic principle regarding bail concept in mind, I have examined the materials placed before this court. The prosecution case, as emerging from the complaint and the charge-sheet is that, there existed a monetary transaction between the complainant, son Faisal and accused number one Imtiyaz. On 9th July 2025, at about 3:30 pm, the deceased

Faisal accompanied by his relative Yasin Inamdar, proceeded to the garage of accused No.1 to demand repayment of the said amount. It is in this background, the prosecution alleges that petitioner /accused No.1 joined the other accused persons wrongfully restrained Faisal, assaulted him with a knife and a baseball bat and thereby caused his death.

14. Based on these allegations, a complaint came to be lodged and a case in Crime No.142 of 2025 was registered for the offences including murder and upon completion of investigation, the investigating officer has filed the charge-sheet against all accused, including the present petitioner. Copy of the charge-sheet submitted against the present accused reveals that CW1 is the complainant. CWs12 to 20 are eye-witnesses to the incident. It is alleged by the prosecution that accused No.1 has stabbed the deceased on his chest and abdomen with khanjar and caused his death. Postmortem report also reveals that the cause of death is due to haemorrhage and shock secondary to sharp weapon injury to the vital organs (heart and left lung). The report further stated that injuries are antemortem in nature.

15. Upon examination of the charge-sheet papers, particularly the statements of two eyewitnesses-CW12 and

CW13, it becomes evident that specific allegations have been levelled against the accused.No.1 These eyewitnesses have categorically stated that the accused No.1 with other accused persons chased the deceased Faisal, apprehended him, and held him tightly, thereby enabling accused No.1 to stab the deceased with a knife, resulting in fatal injuries. At this preliminary stage, such consistent and direct eyewitness accounts cannot be disregarded. The contention of the petitioners that no overt act is attributed to them is therefore untenable. The act of restraining and immobilising the deceased, which directly facilitated the fatal assault, constitutes a substantial overt act attributable to the petitioners. Hence, at this stage of consideration for bail, there exists a strong prima facie material.

16. Further, on careful examination of the entire material and record, at this stage, there are sufficient materials to proceed against the accused for the offence under Section 302 of Indian Penal Code. The alleged offence is heinous in nature and is punishable with death or imprisonment for life. At this stage, if the accused is released on bail, there is every possibility of tampering or threatening the prosecution witnesses and also

will affect the society at large. In the result, I proceed to pass the following:

ORDER

Petition is dismissed.

**Sd/-
(G BASAVARAJA)
JUDGE**

Inn