



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 15TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

CRIMINAL PETITION NO.201303 OF 2025

(438(Cr.PC)/482(BNSS))

BETWEEN:

1. SANTOSH S/O VIJAY NAYAK,
AGE: 39 YEARS, OCC: AGRICULTURE,
2. MOHAMED SALEEM S/O KHAJASAB,
AGE: 49 YEARS, OCC: AGRICULTURE,
3. MURTUJA S/O HUSSENSAB,
AGE: 50 YEARS, OCC: AGRICULTURE,
4. SHIVAKUMAR S/O SANGANGOUDA PATIL,
AGE: 48 YEARS, OCC: AGRICULTURE,
ALL ARE R/O ILKAL, TQ.ILKAL,
DIST. BAGALKOT.

...PETITIONERS

(BY SRI GANESH NAIK, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH THE GEOLOGIST,
THE MINES AND MINERALS DEPARTMENT AT
RAICHUR, ITS REPRESENTED BY
ADDL. S.P.P.,
HIGH COURT OF KARNATAKA
AT KALABURAGI BENCH-585103.

...RESPONDENT

(BY SRI JAMADAR SHAHABUDDIN, HCGP)

Digitally signed
by RENUKA
Location: HIGH
COURT OF
KARNATAKA



THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 OF CR.P.C (OLD), UNDER SECTION 482 OF BNSS (NEW), PRAYING TO ALLOW THE PETITION AND THEREBY RELEASE THE PETITIONERS ON BAIL IN (PCR NO.26/2018) C.C. NO.06/2021 WHICH IS REGISTERED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 4(1), 4(1-A), 21 OF MMDR ACT AND 3, 42, 43 AND 44 OF KSMC RULES 1994 AND SEC.379 OF IPC, PENDING ON FILE OF THE COURT CIVIL JUDGE AND JMFC AT LINGASUGUR.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

This petition is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking the extraordinary relief of anticipatory bail in connection with the criminal proceedings pending in C.C. No.6/2021, registered for the offences punishable under Sections 4(1), 4(1-A), and 21 of the Mines and Minerals (Development and Regulation) Act, 1957, Sections 3, 42, 43, and 44 of the Karnataka Mines and Minerals Rules, and Section 397



of the Indian Penal Code, which are presently pending before the competent Court.

2. Learned High Court Government Pleader, opposing the petition, has drawn the attention of this Court to the order sheet in the pending case and has submitted that the petitioners have been absconding since the year 2022. It is contended that despite issuance of non-bailable warrants (NBWs) against the petitioners, they have deliberately evaded arrest and failed to cooperate with the investigation and the proceedings before the Trial Court. It is therefore argued that the petitioners, being proclaimed absconders, are not entitled to the discretionary relief of anticipatory bail under Section 482 of the BNSS, which is meant to be exercised only in rare and exceptional circumstances to prevent miscarriage of justice.

3. On a careful perusal of the order sheet and the case records, this Court finds that though the non-bailable



warrants were issued against the present petitioners and other accused as early as in December 2021, the Investigating Officer has inexplicably failed to execute the same. This Court also notices that the alleged incident dates back to 07.07.2018, and nearly seven years have elapsed since the alleged occurrence. The petitioners, having remained absent and having failed to submit themselves to the jurisdiction of the Trial Court for such an extended period, cannot now seek to invoke the inherent powers of this Court under Section 482 of the BNSS to secure anticipatory bail.

4. It is trite law that a person who has evaded due process of law and continues to remain in defiance of a subsisting warrant of arrest cannot claim the protection of anticipatory bail as a matter of right. Granting such indulgence would defeat the very purpose of the coercive process and undermine the authority of the Court. Therefore, this Court is of the considered view that the



petitioners, having chosen to disregard the lawful process, are not entitled to any relief in the present proceedings.

5. However, in the interest of justice, and to ensure that the petitioners are not prejudiced in pursuing remedies available under law, liberty is reserved to them to voluntarily appear before the jurisdictional Court and move an appropriate application seeking regular bail. The concerned Court shall consider such application on its own merits and in accordance with law.

6. It is further directed that if the petitioners appear before the Trial Court and file an appropriate application for bail, the learned Magistrate/Judge shall consider and dispose of the same expeditiously, keeping in view the principles governing grant of bail in offences of this nature and the fact that the incident pertains to the year 2018.

7. For the foregoing reasons, this Court passes the following:



ORDER

- i. The petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail is hereby dismissed.
- ii. Liberty is, however, reserved to the petitioners to appear voluntarily before the concerned Court and seek appropriate relief in accordance with law.
- iii. If such an application is filed, the Trial Court shall consider and decide the same expeditiously without being influenced by any observations made in this order.
- iv. All pending interlocutory applications, if any, stand disposed of.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

RSP
List No.: 1 SI No.: 8
CT:SI