

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE Mr. JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION No.16200/2025

BETWEEN :

NANJUNDA
S/O RAMESHAPPA
AGED ABOUT 33 YEARS
R/AT MARAVANJII VILLAGE
YAGATI HOBLI
KADUR TALUK
CHIKKAMANGALORE -45

... PETITIONER

(BY SRI. PRATHEEP K.C, ADVOCATE)

AND :

THE STATE OF KARNATAKA
REP. BY BANAVARA POLICE STATION
HASSAN DISTRICT
REP. BY ITS
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560 001

... RESPONDENT

(BY SRI. M.R. PATIL, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C (FILED UNDER SECTION 483 OF BNSS) PRAYING TO ALLOW THIS PETITION AND ENLARGE THE PETITIONER ON BAIL IN SC No.155/2025(CRIME No.32/2025), PENDING ON THE FILE OF PRINCIPAL DISTRICT AND SESSIONS JUDGE AT HASSAN, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 103(1), 115(2), 118(1), 351(2), 351(3) READ WITH SECTION 3(5) OF BNS BY BANAVARA POLICE.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 23.01.2026, THIS DAY, **SHIVASHANKAR AMARANNAVAR J**, DELIVERED THE FOLLOWING;

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

CAV ORDER

This petition is filed by accused No.2 under Section 483 of BNSS praying to grant bail in S.C.No.155/2025 (Crime No.32/2025 of Banavara Police Station), pending on the file of Principal District and Sessions Judge, Hassan, for the offence punishable under Section 103(1), 115(2), 118(1), 351(2), 351(3) read with 3(5) of BNS, 2023.

2. Heard the learned counsel for the petitioner and learned HCGP for respondent / State.

3. Learned counsel for the petitioner would contend that a complaint has been filed by the wife of the deceased and she is the eye witness to the incident. CWs.1 to 9 are eye witnesses to the incident and out of them, CWs.2 and 3 are injured persons. The petitioner has been arrested on 05.04.2025 and he is in judicial custody. As the charge sheet is filed, petitioner is not required for further custodial interrogation. The grounds of arrest have not been furnished to the petitioner prior to he being produced before the Judicial Magistrate. As the grounds of arrest are not furnished to the petitioner, the arrest and remand are illegal and therefore, the petitioner requires to be set at liberty. There is a significant difference between the reasons for arrest and grounds of arrest. The reasons for arrest as indicated in the arrest memo are purely formal parameters. The grounds of arrest would invariably be personal to the accused and cannot be equated with the reasons of arrest which are general in nature. On that

point, learned counsel placed reliance on the decision of the Hon'ble Apex Court in the case of **Ahmed Mansoor and others vs. State Rep. by Assistant Commissioner of Police (2025 SCC OnLine SC 2650)**.

The learned counsel has placed reliance on the following decisions on the point that arrest is illegal if the grounds of arrest are not furnished to the accused:

- (i) Prabir Purkayastha vs. State (NCT of Delhi) (2024) 8 SCC 254
- (ii) Mihir Rajesh Shah vs. State of Maharashtra and another (2025 SCC OnLine SC 2356)

On these grounds he prayed to allow the petition.

3. *Per contra*, learned HCGP would contend that the arrest intimation has been given to the sister of the petitioner and in that it is mentioned that he has been arrested for investigation. In answer to 11 guidelines, there is a mention at column No.5 that reason for arrest has been intimated to the accused. The petitioner is aware of the grounds on which he has been arrested. Therefore,

there is no violation of non-furnishing of grounds of arrest. There is a serious overt act alleged against this petitioner of assaulting the deceased with knife on his ribs. There are nine eye witnesses i.e., CWs.1 to 9 who have seen the petitioner assaulting the deceased with knife on his ribs. Out of them, CWs.2 and 3 are injured and accused No.1 is stated to have assaulted them with knife on their back and hand. The charge sheet material show prima-facie case against the petitioner for the offence alleged against him. One of the offence is provided with punishment with death or imprisonment of life. The offence alleged against the petitioner is a heinous offence. If the petitioner is granted bail, there is a threat to the prosecution witnesses. On these grounds, he prayed to reject the petition.

4. Having heard the learned counsels, the Court has perused the charge sheet and other materials placed on record.

5. The case of the prosecution as per the charge sheet is that accused No.1 was working under deceased – Lakkappa. At that time, he had committed theft of copra and he was caught and deceased has removed him from job. The accused felt that he has been insulted and told the deceased that he will show his another face. With that grudge, on 04.04.2025 at about 11.30 p.m. when CWs.2 to 6 were playing chowkabara i.e. cross-and-circle board ludo game in front of house of one Basavanna, at that time, accused No.1 came there and told CWs.2 to 6 that they are playing Jujata i.e. gambling and will intimate the same to the police by making a call to 112 and get lodged a case against them. CWs.2 to 6 after playing the game, they were sitting and talking and at about 11.45 p.m., deceased came to go to his copra shed. At that time, CWs.2 to 6 intimated regarding the said aspect. Therefore, deceased along with CWs.2 to 6 went near the house of accused No.1 and asked him why he is making a false statement to the

police. At that time, accused No.2 was present with accused No.1 and they quarreled with deceased and assaulted him. Accused No.2 went inside the house of accused No.1 and brought knife and assaulted with the said knife on the left side ribs and accused No.1 snatched the knife from accused No.2 and assaulted with the said knife on the left side chest of deceased and deceased fell down. CW.2 and 3 went to rescue and at that time, accused No.1 assaulted CW.2 with a knife on his back and assaulted CW.3 with knife on his left hand and caused injuries. CWs.1, 7, 8 and 9 went to ask the accused persons, at that time, accused persons gave them life threat.

6. CWs.1 to 9 are the eye witnesses and out of them, CWs.2 and 3 are the injured in the incident. Their statement clearly indicate the overt act of this petitioner and another accused assaulting the deceased with knife on his chest. The PM report indicates that cause of death is

hemorrhagic shock due to penetrating injury to lung and chest sustained.

7. CWs. 2 and 3 have sustained one simple injury. The offence alleged against the petitioner is under Section 103(1) of BNS which is punishable with death or imprisonment for life. CWs.1 to 8 are eye witnesses to the incident. Considering the severity of the offence, the petitioner is not entitled for grant of bail. If the petitioner is granted bail, there is a threat to the prosecution witnesses. Considering the above aspects, the petitioner is not entitled for grant of bail.

8. Learned counsel for the petitioner has argued that the grounds of arrest are not furnished to accused and therefore, the arrest is illegal and petitioner requires to be set at liberty. In order to ascertain whether the grounds of arrest are furnished to the petitioner, this Court has secured the records of the trial Court. On perusal of the

records of the trial Court, this Court finds that grounds of arrest are not furnished to the petitioner.

9. In *Prabir Purkayastha vs. State (NCT of Delhi)*, the Hon'ble Apex Court has held as under:

48. It may be reiterated at the cost of repetition that there is a significant difference in the phrase 'reasons for arrest' and 'grounds of arrest'. The 'reasons for arrest' as indicated in the arrest memo are purely formal parameters, viz., to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; to prevent the arrested person from making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the 'grounds of arrest' would be required to contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in

writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the 'grounds of arrest' would invariably be personal to the accused and cannot be equated with the 'reasons of arrest' which are general in nature.

49. From the detailed analysis made above, there is no hesitation in the mind of the Court to reach to a conclusion that the copy of the remand application in the purported exercise of communication of the grounds of arrest in writing was not provided to the appellant accused or his counsel before passing of the order of remand dated 4-10-2023 which vitiates the arrest and subsequent remand of the appellant.

50. As a result, the appellant is entitled to a direction for release from custody by applying the ratio of the judgment rendered by this Court in Pankaj Bansal.

10. The Hon'ble Apex Court in Mihir Rajesh Shah (supra) considering the provisions of Article 22 of Constitution of India, Section 50 of Cr.P.C. and Section 47 of BNSS, 2023 and referring to the decisions in the case of

Pankaj Bansal v. Union of India, Senthil Balaji v. State (2024) 3 SCC 51, Prabir Purkayastha (supra), Vihan Kumar and Lallubhai Jogibhai Patel v. Union of India (1981) 2 SCC 427 has observed as under:

45. From the catena of decisions discussed above, the legal position which emerges is that the constitutional mandate provided in Article 22(1) of the Constitution of India is not a mere procedural formality but a constitutional safeguard in the form of fundamental rights. The intent and purpose of the constitutional mandate is to prepare the arrested person to defend himself. If the provisions of Article 22(1) are read in a restrictive manner, its intended purpose of securing personal liberty would not be achieved rather curtailed and put to disuse. The mode of communicating the grounds of arrest must be such that it effectively serves the intended purpose as envisioned under the Constitution of India which is to enable the arrested person to get legal counsel, oppose the remand and effectively defend himself by exercising his rights and safeguards as provided in law. The grounds of arrest must be provided to the arrestee in such a manner that sufficient knowledge of facts constituting

grounds is imparted and communicated to the arrested person effectively in a language which he/she understands. The mode of communication ought to be such that it must achieve the intended purpose of the constitutional safeguard. The objective of the constitutional mandate would not be fulfilled by mere reading out the grounds to the arrested person, such an approach would be antithesis to the purpose of Article 22(1). There is no harm in providing the grounds of arrest in writing in the language the arrestee understands, this approach would not only fulfill the true intent of the constitutional mandate but will also be beneficial for the investigating agency to prove that the grounds of arrest were informed to the arrestee when a challenge is made to the arrest on the plea of non-furnishing of the grounds of arrest.

46. This Court is of the opinion that to achieve the intended objective of the constitutional mandate of Article 22(1) of the Constitution of India, the grounds of arrest must be informed to the arrested person in each and every case without exception and the mode of the communication of such grounds must be in writing in the language he understands.

11. The Hon'ble Apex Court in the said decision has considered the effect of non furnishing the grounds of arrest in para 54 and 55 which reads as under:

54. In view of the above, we hold with regard to the second issue that non supply of grounds of arrest in writing to the arrestee prior to or immediately after arrest would not vitiate such arrest on the grounds of non-compliance with the provisions of Section 50 of the Cr.P.C. 1973 (now Section 47 of BNSS 2023) provided the said grounds are supplied in writing within a reasonable time and in any case two hours prior to the production of the arrestee before the magistrate for remand proceedings.

55. It goes without saying that if the above said schedule for supplying the grounds of arrest in writing is not adhered to, the arrest will be rendered illegal entitling the release of the arrestee. On such release, an application for remand or custody, if required, will be moved along with the reasons and necessity for the same, after the supply of the grounds of arrest in writing setting forth the explanation for non-supply thereof within the above stipulated schedule. On receipt of such an

application, the magistrate shall decide the same expeditiously and preferably within a week of submission thereof by adhering to the principles of natural justice.

12. In the case on hand also, the investigating officer who has arrested the petitioner produced him before the jurisdictional Judicial Magistrate has not furnished the grounds of arrest to the petitioner. Therefore, the arrest will be rendered illegal entitling the release of arrestee.

The Hon'ble Apex Court in the said case has also observed as under:

60.However, the prosecution may move an application for remand or custody, if required, along with the reasons and necessity for the same, after the supply of the grounds of arrest in writing to the accused, before the magistrate if the case has not been committed for trial and in case the trial having commenced before the Trial Court as the case may be.

Considering the above aspects the following:

ORDER

- i) The petition is partly allowed.
- ii) The petitioner is set at liberty. However, the prosecution may move an application for remand/custody after supply of grounds of arrest in writing to the petitioner/accused No.2 before the trial Court.
- iii) The remand of the petitioner and accused No.1 has been sought by Circle Police Inspector, Arsikere Rural Circle, Arsikere. There has been lapse on the part of the CPI, Arsikere Rural Circle in not furnishing the grounds of arrest to the petitioner/accused No.2 and accused No.1 and non-complying Section 47 of BNSS, 2023 (Section 50 of Cr.P.C.).
- iv) Send a copy of this order by e-mail to the Superintendent of Police, Hassan with a copy to CPI, Arsikere Rural Circle, Arsikere.

v) Send the records to Trial Court with copy of this order forthwith.

**Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE**

DKB