IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 1ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO.101147 OF 2026

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

BETWEEN:

MOHAMMED ESMAIL
S/O. MOHAMMED JAMEEL TAMATGAR,
AGE. 48 YEARS, OCC. BUSINESS,
R/O. MICHAKIN COMPOUND OPP. PRIVATE ITI COLLEGE,
SAPTAPUR, TQ. AND DIST. DHARWAD-580002,
R/O. AT PRESENT C/O. MOHAMMED JAMEEL TAMATGAR,
NEAR VIDYAMIYA HIGH SCHOOL, OPP NIZAMODIN COLONY,
MADIHAL ROAD, TQ. AND DIST. DHARWAD-580001.

...PETITIONER

(BY SRI. M.T. NANAIAH, SENIOR COUNSEL FOR
SRI. K.L. PATIL, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
THROUGH DHARWAD SUB-URBAN POLICE STATION,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA, DHARWAD BENCH,
DHARWAD-580011.

...RESPONDENT

(BY SRI. T. HANUMAREDDY, ADDL. SPP;
SRI. NOHA S.EDWARD, ADVOCATE FOR COMPLAINANT)

Digitally signed by
CHANDRASHEKAR
LAXMAN KATTIMANI
Location: HIGH
COURT OF
KARNATAKA
DHARWAD BENCH
DHARWAD

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF BNSS (UNDER SECTION 438 OF CR.P.C.), PRAYING TO ALLOW THE PRESENT PETITION AND RELEASE THE PETITIONER/ACCUSED ON ANTICIPATORY BAIL IN DHARWAD SUB-URBAN POLICE STATION CRIME NO.94/2026 REGISTERED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 61(2)(A), 189(2), 191(2), 191(3), 115(2), 332(A), 333, 103 R/W SECTION 190 OF BNS AND SEC. 27(1) OF ARMS ACT.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

1. Heard the learned Senior Counsel for the petitioner, the learned counsel for the respondent-State, and the learned counsel for the defacto complainant, who has placed reference of the Apex Court in ***Jagjeet Singh and Others v. Ashish Mishra @ Monu and Another***[1].

2. This petition is filed seeking anticipatory bail in connection with Crime No.94/2026 registered at Dharwad Sub-Urban Police Station, Dharwad, for the offences punishable under Sections 61(2)(a), 198(2), 191(2), 191(3), 115(2), 332(8), 333, 103 read with Section 190 of the Bharatiya Nyaya Sanhita, 2023[2] and Sections 27(1) of the Arms Act,1959[3].

3. The petitioner's application for anticipatory bail was rejected by the learned Sessions Judge on 13.05.2026 in Criminal Miscellaneous No.211/2026.

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[1] Criminal Appeal no.632/2022 dated 18.04.2022

[2] For short 'the BNS, 2023'

[3] For short 'the Arms Act, 1959'.

4. Learned Senior Counsel appearing for the petitioner made the following submissions:

4.1 It is submitted that, in the complaint as well as the FIR, the petitioner is not named. It is further submitted that, petitioner's name is also not mentioned in the remand application. However, when the petitioner had gone abroad to meet his daughter, who is studying, the lookout notice is issued alleging that the petitioner is required for interrogation in the present case.

4.2. Learned Senior Counsel would urge that, the contents of the complaint if read, does not disclose the involvement of the petitioner. His presence is not stated at the place of alleged incident. The respondent-State is alleging conspiracy against the petitioner and opposing the petition seeking anticipatory bail on the premise that the petitioner will not cooperate with the investigation.

4.3. It is the further submission that, so far, nothing incriminating has been recovered from the remaining accused despite the investigation and the charge sheet being filed,

absolutely there are no reasons to oppose the anticipatory bail application filed by the petitioner.

4.4 Learned Senior Counsel would also urge that, 14 persons have been charge sheeted and two persons have been released on bail. Thus, it is urged that, the case of the petitioner is similar to that of the accused who have already been released on bail.

4.5. It is further submitted that, the only distinguishing factor is that the petitioner is seeking anticipatory bail, whereas the other accused, who have been released on bail, had sought regular bail.

4.6 It is submitted that, since the investigation is over and the charge sheet has been filed, custodial interrogation of the petitioner is not required. It is further submitted that, there are no criminal antecedents against the petitioner and that the petitioner is ready to abide by any terms and conditions for his release on bail.

5. Learned Additional SPP as well as the learned counsel for the defacto complainant would oppose the bail

petition on the premise that, the petitioner is absconding ever since the complaint was registered. It is submitted that the petitioner is not in India and has gone abroad. There is every possibility of the petitioner absconding again and fleeing from justice.

6. It is also submitted by the learned counsel for the defacto complainant that, the petitioner had given a threat over the telephone to the deceased and said telephone conversation is recorded and there is every possibility that the petitioner may induce or threaten the witnesses and interfere with a fair trial.

7. It is submitted that, remaining other two accused, who have been granted bail, had filed regular bail petition and did not file anticipatory bail applications, as such, the petitioner cannot claim parity.

8. The Court has considered the contentions raised and perused the records.

9. Though the learned counsel for the defacto complainant submitted that a complaint was lodged against the

petitioner by Abdul Desai, learned Additional SPP would submit that the said complaint has been investigated and nothing was found against the petitioner and the case is closed as against the petitioner.

10. As already noticed, the charge sheet is already filed. The contents of the complaint do not indicate the presence of the petitioner at the scene of offence.

11. Though it is stated by the learned counsel for the defacto complainant that the telephone conversation is referred to in the charge sheet, the electronic records relating to the said conversation have not yet been made part of the charge sheet.

12. Considering the facts and circumstances of the case, this Court is of the view that the petitioner may be enlarged on bail, subject to the condition that the police shall further investigate the matter including the telephonic conversation allegedly recorded by the defacto complainant, and the same shall form part of the charge sheet.

13. The other apprehension of the respondent–State that the petitioner may not cooperate with the investigation and may not cooperate for a fair trial can be taken care of by imposing suitable conditions.

14. It is also relevant to notice that the charge sheet is filed when the petitioner was not available for investigation. The defacto complainant has alleged that the threat given by the petitioner over the telephone, to the victim is recorded and the material is available with the defacto complainant. Since the investigation against the petitioner is required to be done as he was not available for investigation, the complainant is at liberty to furnish the materials relating to alleged telephone conversation between the petitioner and the deceased to the Police. The Police shall investigate the matter in a manner known to law. And an appropriate report shall be submitted for the jurisdictional Court.

15. Hence, the following:

ORDER

Petition is ***allowed*** subject to the following conditions:

i. Petitioner shall appear before the jurisdictional Sessions Court within 10 days from today and shall be released on bail in connection with Crime No.94/2026 registered before Sub-Urban Police Station,Dharwad.

ii. Petitioner/s shall furnish bail bond for a sum of ₹2,00,000/- with two sureties for the likesum.

iii. Petitioner shall surrender his passport before the jurisdictional police till further orders to be passed by the Sessions Court.

iv. Petitioner shall co-operate with the investigation or inquiry.

v. Petitioner shall not threaten, induce, or promise anyone acquainted with the facts, nor tamper with evidence or witnesses.

vi. Petitioner shall furnish current address, active mobile number, to the jurisdictional police and intimate any changes within 48 hours.

vii. Petitioner shall mark his presence before the police as and when his presence is required.

viii. Petitioner shall not leave the jurisdiction of the police station without prior information and intimation to the jurisdictional police.

ix. Petitioner shall not commit any offences.

16. Since the Court has granted anticipatory bail and has granted the petitioner ten days' time to furnish bail, the lookout notice issued by the police shall not be given effect to for a period of ten days, to enable the petitioner to appear before the jurisdictional Sessions Court.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

SMM,RHR/-
CT: UMD
List No.: 1 Sl No.: 20