



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 3712 OF 2026

BETWEEN:

SHIVARAJU D.,
S/O DHOOLAIAH
AGED ABOUT 36 YEARS
RESIDING AT 3RD WARD
BADRIKOPPALLU
PALAGRAHARA POST
NAGAMANAGALA TALUK
MANDYA DISTRICT - 571 432.

...PETITIONER

(BY SRI HONNESA B. R., ADVOCATE)

AND:

HEMANTH KUMAR H. K.,
S/O KRISHNAPPA
AGED ABOUT 36 YEARS
RESIDENT OF
MYLARAPATNA ROAD
T.B.EXTENSION
NAGAMANGALA TOWN AND TALUK
MANDYA DISTRICT - 571 432.

...RESPONDENT

THIS CRL.P IS FILED U/S 482 CR.P.C PRAYING TO SET ASIDE CONDITION IMPOSED IN ORDER DATED 23.02.2026, PASSED BY THE PRL.SENIOR CIVIL JUDGE AND J.M.F.C AT NAGAMANGALA IN C.C.NO.757/2021 REGARDING FURNISHING CASH SURETY OF RS.2,50,000/-.





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

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

ORAL ORDER

The petitioner is before this Court, calling in question an order dated 23.02.2026, passed by the Principal Senior Civil Judge and JMFC, Nagamangala, in C.C.No.757/2021, by which, the bail application filed under Section 436 of the Cr.P.C., in a proceeding under Section 138 of the Negotiable Instruments Act, 1881, comes to be allowed by imposing a condition to execute a personal bond of ₹2,50,000/- and a cash surety of ₹2,50,000/-.

2. Heard Sri Honnesha B.R., learned counsel for petitioner. Notice to respondent need not be issued in the matter.

3. The allegation is that, the petitioner had issued a cheque of ₹4,00,000 and the said cheque had been dishonoured. The dishonour of the cheque, which leads the complainant before the concerned Court in C.C.No.757/2021. The issue in the *lis* is not with regard to the merit of the claim.



The petitioner files a bail application under Section 436 of the Cr.P.C., before the concerned Court. The concerned Court directs execution of a personal bond of ₹2,50,000/- along with furnishing of cash surety of ₹2,50,000/-. Aggrieved by the order, which directs furnishing of cash surety of ₹2,50,000/- for grant of bail, the petitioner is before this Court in the subject petition.

4. It is trite law that cash surety must not be imposed as a condition precedent for setting a person at liberty. The issue stands answered by the judgment of the Apex Court in the case of **GAJANAN DATTATRAY GORE v. STATE OF MAHARASHTRA** reported in **2025 SCC OnLine SC 1571**, wherein, it is held as follows:

"....

19. By this order, we make it clear and that too in the form of directions that henceforth no Trial Court or any of the High Courts shall pass any order of grant of regular bail or anticipatory bail on any undertaking that the accused might be ready to furnish for the purpose of obtaining appropriate reliefs.

20. The High Courts as well as the Trial Courts shall decide the plea for regular bail or anticipatory bail strictly on the merits of the case. The High Courts and the Trial Courts shall not exercise their discretion in this regard on any undertaking or any



statement that the accused may be ready and willing to make.

21. This practice has to be stopped. Litigants are taking the courts for a ride and thereby undermining the dignity and honor of the court.

22. We hope and trust that the High Courts as well as the Trial Courts across the country do not commit the same mistake again.

23. In the case in hand, so far as the plea for regular bail is concerned, we are not inclined to look into. The appellant has made a mockery of justice. He could be said to have abused the process of law. If at all the High Court wanted to release the appellant on bail, it should have first asked him to deposit the amount within a particular period of time and upon such deposit the appellant could have been released.

24. Be that as it may, now we have made ourselves very clear that **there shall not be a single order that the High Courts and the Trial Courts shall pass for grant of regular bail or anticipatory bail on the basis of any accused or his/her family members giving an undertaking to deposit a particular amount. The plea shall be decided strictly on merits in accordance with law. If the case is made out on merits the court may exercise its discretion and if no case is made out on merits the court shall reject the plea for regular bail or anticipatory bail as the case may be. However, in any circumstances the High Courts or trial courts shall not pass a conditional order of regular bail or anticipatory bail."**

(Emphasis supplied)

The Apex Court, in the case of **PRANTIK KUMAR v. STATE OF JHARKHAND AND ANOTHER** in **SLP(Crl.) Diary No.4297/2026, disposed on 03-02-2026**, while following



the judgment rendered in the case of **GAJANAN DATTATRAY**

GORE *supra*, has held as follows:

"....

8. It is very unfortunate that despite this Court saying in so many words that grant of regular bail or the anticipatory bail should not be subject to deposit of any amount, the High Court has said that the petitioners should deposit the balance amount of Rs.9,12,926.84.

9. In our Judgment, referred to above, we made ourselves very clear that if a case for grant of bail or anticipatory bail is made out, then the Court should proceed to pass an appropriate order and if not made out, the Court may decline, however, Court should not pass a conditional order of deposit of a particular amount and then exercise its discretion."

(Emphasis supplied)

The Apex Court holds that while setting any person at liberty or granting bail in any proceeding, the Court should not direct such person to furnish cash surety without any rhyme or reason.

5. In the case at hand, the petitioner is seeking a bail under Section 436 of the Cr.P.C., in the proceedings under Section 138 of the Negotiable Instruments Act, 1881 and the concerned Court while answering the bail application ought not to have directed furnishing of cash surety, apart from the



personal bond of ₹2,50,000/-. Therefore, that portion of the order which directs furnishing of cash surety stands quashed.

6. For the aforesaid reasons, the following:

ORDER

- a. The criminal petition is allowed.
- b. The portion of the order dated 23.02.2026, passed by the Principal Senior Civil Judge and JMFC, Nagamangala, in C.C.No.757/2021, insofar as the direction to the petitioner to furnish cash surety of ₹2,50,000/-, stands quashed.
- c. The other conditions if any, shall stand intact in the impugned order or any other conditional order.

Ordered accordingly.

**SD/-
(M.NAGAPRASANNA)
JUDGE**