KABC010049822026

IN THE COURT OF LXXXI ADD. CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-82)

:PRESENT:

Sri. Santhosh Gajanan Bhat, B.A.L., LL.B.,
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)
(Special Court exclusively to deal with criminal cases related to elected former and sitting MPs/MLAs in the State of Karnataka)

Dated this the 12th day of March, 2026

Crl.Misc.No.1780/2026

PETITIONER/ ACCUSED NO.5 : B.A.Basavaraja
S/o Late.Anjinappa,
Aged about 61 years,
Residing at No.93/94,
Shanthiniketana Road,
Chandraiah Layout,
Medahalli,
Bengaluru – 560 049.

(Sri.Sandesh Chouta, learned Senior Counsel for Sri. Hemanth Kumar.D, Advocate for Petitioner)

V/s

RESPONDENT : **State by Bharathinagar Police,**
St. Johns Church Road,
Pulakeshinagar Sub-Division,
Bengaluru – 560 005.
Presently investigated by CID,
Bengaluru.

(Sri.Ashok N. Naik, Learned Special Public Prosecutor for Respondent)

ORDER

This bail petition has been filed under Section 483 of BNSS 2023 wherein the petitioner who has been arraigned as accused No. 5 in Crime No. 73/2025 for the alleged offences punishable under Sec.61, 189(2) & (4), 103, 118(1), 190, 111(2)(a), 111(2)(b), 111(3), 111(4), 238 r/w Sec.3(5) of BNS 2023 has been arrested and remanded to judicial custody on 12.02.2025.

2. The brief facts leading to the registration of the case is that the criminal law was set into motion on the basis of the written information filed by one Smt. Vijay Lakshmi on 15.07.2025, wherein she had stated that her son Shivaprakash alias Biklu Shiva was

brutally murdered in front of her house at about 08.00 p.m. by some 8-9 unknown assailants. It is narrated in the complaint that the incident was eye-witnessed by one Mr. Imran Khan and also another person and on the basis of the same she had lodged the complaint. Based on the same, a FIR came to be registered and accused No. 1 to 4 and 6 to 19 were arrested during the pendency of the investigation. During the course of investigation, the case came to be transferred from Bharati Nagar Police Station and as per the orders passed by the State of Karnataka the investigation was entrusted to CID. After commencing the investigation by CID, they had requested the competent authority to invoke the provisions of KCOCA Act in the above case. On 02.08.2025, necessary permission was granted to invoke the provisions of KCOCA. However, the invocation of KCOCA came to be challenged by accused No.5 the petitioner herein, before the Hon'ble High

Court of Karnataka and also, he had sought for interim protection from the Hon'ble High Court. As such a Criminal petition in Crl. P. No.10290 of 2025 was filed by him, wherein an interim protection order was also granted from taking coercive steps. Apart from that, a writ petition also came to be filed in WP No. 31304 of 2025, which was subsequently allowed by the Hon'ble High Court of Karnataka, wherein the invocation of KCOCA itself came to be quashed by the kind Order dated 19.12.2025. The petitioner had also sought the liberty to withdraw the Criminal petition which he had filed before the Hon'ble High Court of Karnataka and later on the anticipatory bail petition which he had filed came to be rejected by this Court and again the same was challenged before the Hon'ble High Court of Karnataka unsuccessfully and also before the Hon'ble Apex Court. Thereafter the petitioner was arrested on 12.02.2026 and after that he was remanded to Police

custody for a period of 1 week and on completion of the same he was remanded to judicial custody by the orders passed by the Committal Court.

3. Being aggrieved by the same, the present bail application has been filed by contending that the petitioner is an innocent and has not at all committed any offence as alleged by the prosecution. It is also submitted that the allegation in the complaint even if it is taken at its face value do not make out any case against the petitioner and the complaint does not disclose the essential ingredient of an offence which is alleged against the petitioner herein. It is also submitted that the Investigating Agency after about 5 months had failed to point out any evidence in support of their case so far as the petitioner is concerned and in order to highlight and buttress the same the petitioner has narrated about the 18 aspects which are of relevance in the above case and which is enumerated as below;

i. There is nil evidence against the petitioner in so far as conspiracy is concerned.

ii. There is nil evidence against the petitioner in so far as the preparation to commit the offence is concerned.

iii. There is nil evidence as regard any adverse conduct of the petitioner prior to the incident.

iv. There is no electronic evidence of any kind be it called CDRS, messages or any other communication between the other accused and the petitioner prior to the incident on 15.07.2025.

v. There is nil evidence of the presence of the petitioner anywhere close to the vicinity of the incident in question.

vi. There is nil evidence in so far as communication between the other accused and the petitioner immediately post the incident on 15.07.2025.

vii. There is no evidence as regard petitioner having any knowledge about this incident on 15.07.2025.

viii. There is no evidence of adverse conduct in so far as the petitioner is concerned immediately post 15.07.2025.

ix. There is no evidence of any extra judicial confession as against the petitioner in relation to the incident.

x.In none of the statement of the co-accused is there any implication or allegation against the petitioner (total number of accused 20 including petitioner).

xi. There is no allegation in any of the 19 remand reports pointing towards the role of the petitioner in the alleged incident.

xii. Even in the approval order of involving KCOCA there is no allegation disclosing involvement of the petitioner in the incident in question.

xiii. There is no scientific evidence pointing towards any incriminating circumstance as against this petitioner.

xiv. The statements recorded of the petitioner by the jurisdictional police has not led to any discovery of fact under Section 27 of the Indian Evidence Act.

xv. In the chargesheet filed by the CID on 22.12.2025 there is nothing suggestive of the petitioner involvement in this incident and that is probably the reason why the petitioner is not arrayed as an accused in the said chargesheet. In other words, there is absolutely no prima facie case that has been gathered

during this entire investigation done by CID and probably that is the reasons why the CID has not even summoned the petitioner once during their investigation that spanned approximately 5 months 10 days.

xvi. ***It is also relevant to once again indicate that the coordinate bench while passing protective orders had permitted the prosecution to seek modification of the same if need arose. Despite the same not once did the prosecution seek any modification so as to enable any custodial interrogation. Therefore, all that we have from the prosecution material is a case of acquaintance and nothing else.***

xvii. ***The only other aspect which was pointed out was that post the incident it was seen that the tower location of accused no 1 coincided with the accused no 5. The prosecution has failed to produce any CDR in relation to conversation between A1 and A5. They have failed to indicate the latitude and longitude to establish the two persons were together at any given point of time. From the material in the chargesheet if any person TRE travels anywhere close to residence of A1 then the tower signals will merely indicate the same.***

xviii. ***Without wanting to repeat the same the conduct of the petitioner viz a viz the conduct of the***

investigation agency which had been elaborately pointed out during the argument may be considered.

4. It is also narrated that the petitioner is a law-abiding citizen and he has been falsely implicated in the above case which was initially registered by Bharati Nagar Police Station. It is also submitted that though he was in no way connected with the alleged offence he has been falsely implicated by the concerned Police in the above case based on political vendetta and no prima facie material exists as against the petitioner herein. It is also submitted that even if the entire allegation in the complaint are looked into, the same does not make out any case against the petitioner nor any allegations or overt act is attracted against him. The petitioner has also contented that he is a representative of the people representing the K.R Puram Assembly Constituency and he is an elected Member of Legislative Assembly and belongs to Bharatiya Janata Party. It is

also submitted that since he was having deep roots in the society, there was no flight risk attached to him or absconding or evading the trial. That apart it is also submitted that the deceased was a rowdy sheeter at Bharatinagar Police Station having various criminal antecedents involving in heinous offences. That being the case, the assailants who were the rivals of the deceased might have committed the offence as alleged in the FIR for which the petitioner does not have any nexus to the same. It is also submitted that the complaint refers to an earlier complaint which was allegedly lodged by the deceased before the jurisdictional Police stating that there was an alleged threat on the life of the deceased by accused persons including the petitioner herein. However, the said previous complaint was said to have been given by deceased in Crime No. 21 of 2025 did not even whisper anything about the name of the petitioner and the

entire complaint was filed only against accused no. 1 herein.

5. It is submitted that excluding the accused in FIR, 13 more accused were arrested and remanded to judicial custody and on completion of the investigation necessary final report came to be filed by the Investigating Agency against accused No. 1 to 4, 6 to 19. It is also submitted that no incriminating material was found against the accused/petitioner herein to show his participation in the offence. In spite of the aforesaid aspect, the respondent Police, owing to political pressure exerted, were desperately making hectic efforts to falsely implicate him in the above case. The learned counsel for the petitioner has also argued that the petitioner has been cooperating with the Investigating Agency and not even once the present Investigating Agency had summoned him for the purpose of investigation. It is also submitted that the

kind orders which were passed by the Hon'ble High Court of Karnataka and also by the Hon'ble Apex Court would indicate that the petitioner was cooperative throughout the investigating process and even now the petitioner had cooperated with the Investigating Agency when he was remanded to police custody. By pointing out to the fact that the petitioner was remanded to judicial custody it is submitted that the long incarceration of the petitioner is not at all required and since he is having deep roots in the society and as he is ready and willing to abide by any of the conditions that may be imposed upon by this Court, the petitioner has sought for admitting him to regular bail.

6. On request, the learned SPP has put in his appearance and has filed a detailed statement of objections to the bail petition filed by the petitioner herein. Once again in the statement of objections, a detailed analysis of the case and also the overt act

which is alleged against accused persons have been narrated in detail by the prosecution. The learned SPP has also contended that the deceased Shivaprakash was having a criminal background and was also a rowdy sheeter who was involved in total 16 criminal cases and was also sentenced to prison in one case. It is also submitted that the deceased was involved in illegal money making in the real estate industry along with his supporters and was running a real estate industry by having an office at Horamavu under the name '*Extreme Point*'. With respect to the allegations which has been leveled in the above case, it is submitted that on 10.02.2025, a land dispute had arose between deceased and the other accused persons with respect to a land situated at Kithaganur village. Thereafter it is submitted that on 11.02.2025 the deceased contrary to the earlier discussion of pacifying the matter had entered into the spot with his companions and had obstructed the work

which was being put up in the aforesaid spot and had demolished the partially constructed cow shed. Due to the aforesaid aspect the accused No.2 had sent co-accused No. 13 and 18 to the spot and when they had arrived at the spot and were conversing with the same the deceased had insulted accused No. 1 Jagadeesh who had also come on the previous day. Due to the aforesaid fact a clash had ensued between accused no. 2 and deceased Shivaprakash@ Biklu Shiva, which continued till around 06.00 p.m. on the said day. Even abusive words were hurled and at that point of time accused No. 1 who was participating in Kumbamela at Prayagraj along with accused No. 5 the petitioner herein and accused no. 20 and others was informed by the contractor who was putting up the construction, about the incidents that had taken place at Kittaganuru site. It is also submitted that after returning back from Prayagraj, Kumbhamela, the accused No. 2, accused

No. 3, accused No. 6, accused No. 7, accused No. 13 along with accused No. 18 came to S.L.Arcade tower which mobile tower location falls within the coverage area of the apartment of accused No. 20 Mr. Ajith and had gathered and had consultations and there a conspiracy was hatched to made over the death of Sivaprakash alias Bikla Shiva. The statement of objections also, in detail, explains about the manner in which the murder of Shivaprakas alias Biklu Shiva was carried out by the accused persons.

7. The Learned Special Public Prosecutor has also requested the court to look into the earlier complaint which was filed by the deceased on 18.02.2025, wherein he had stated that he was having threat from the present petitioner who was the sitting MLA of KR Puram Assembly Constituency. It is also submitted by the Learned Special Public Prosecutor that if only the authorities had looked into the aforesaid

complaint in a proper manner, The incident might not have happened.

8. Lastly in the statement of objections, a detailed incriminating acts levelled against accused no. 5 has been narrated by the prosecution. It is submitted that accused No. 1 and the petitioner and also accused No. 20 Ajith were intimate for several years and they were also involved in real estate business along with his brother and also the politicians. It is submitted that accused no. 1 Jagadeesh and accused No. 20 Ajith were having criminal background and they were both involved in murder case previously. Further it is submitted that as per the evidence collected in the year 2002, accused No.1 Jagadeesh alias Jagga and deceased Biklusiva were inmates in a jail at Parappana Agrahara and gradually enmity between them had developed due to a desire to maintain supremacy from 02.02.2025 onwards. It is also submitted that accused

No. 5, the petitioner herein, had played a significant role in the dispute which had erupted between deceased Sivaprakash and also the accused No. 1 at Pai Layout. The aforesaid quarrel had taken place in the year 2024 and the direct target of the petitioner was the deceased Sivaprakash and at his instance 3 criminal cases were filed against the deceased person. It is also submitted that as per the charge sheet which is already filed before this court the deceased Sivaprakash on 10.02.2025 had picked up a quarrel with respect to Kittaganuru Village land dispute. On 11.02.2025 the deceased contrary to the earlier discussions had rushed to the spot along with his companions and had once again picked up a quarrel. It is admitted that the scuffle that had taken place on 11.02.2025 was the starting point which had intensified the enmity between accused No.1 Jagadeesh and also accused No. 2. The participation of accused no. 1 Jagadeesh and also the

petitioner along with accused No. 20 Ajith at Kumbumela in the same flight and also the purchase of tickets with a common PNR number and calls from these persons to their men and participation with respect to Kithagathur property would clearly indicate the nexus which the petitioner was having with the other accused persons. It is also submitted that the complaint lodged by the deceased dated 18.02.2025 shows the conspiracy of accused persons to kill him, wherein the name of accused No. 5 the petitioner herein was forthcoming. It is also submitted that since the petitioner was a high profile person, no action was initiated against him. The CDR analysis also indicates the connection between the petitioner and other accused persons before and after commencement of the offences. It is also submitted that the explanations given by accused about their presence and movements in some areas were false as the CDR analysis shows the

connection of the petitioner with accused persons. Mobile phone was also recovered as contemplated under Section 27 of the Indian Evidence Act which was also pending for analysis.

9. It is narrated in the statement of objections that the source availability about murder was from accused No. 1 Jagadish, who had left the country to avoid custodial interrogation and also to safeguard the petitioner herein. It is narrated that the petitioner had obtained interim protection from the Hon'ble High Court of Karnataka to avoid the custodial interrogation at the initial stage of investigation. That apart the Investigating Officer had collected the private details of accused No.1 Jagdish and who had absconded from the country and also on issuance of Blue Corner notice he was deported to the country. It is submitted that the petitioner's interrogation had shown that the conduct of accused was of suppressing material facts and also his

refusal to answer basic questions. During custodial interrogation accused No. 5/petitioner herein had failed to explain the background or nexus between accused No. 1 Jagadeesh and accused No. 20 Ajith. Further with respect to CDR and tower location the petitioner and his subordinates had attempted to answer in a way so as to suit their defence during the trial which was not acceptable in view of technical evidence. By pointing out to the aforesaid aspect and also by appreciating the materials which were collected till this date the conspiracy angle was established which would also show the overt-act of the petitioner herein. The learned SPP has also filed additional objections and has contented that the petitioner had addressed to the police officers present during the course of his custodial interrogation that he would take necessary action against the officials when his party comes to power in this state. By pointing out to the aforesaid aspects it is

vehemently submitted by the Learned Special Public Prosecutor that no prima facie case has been made out and as such he has sought for rejection of the instant bail petition.

10. The Learned Senior Counsel, Sri Sandesh J. Chowta appearing on behalf of the petitioner has taken this court through the entire averments made in the petition and also the charge sheet materials. It is his submission that in the first remand application the 9 reasons which were assigned would clearly indicate that sufficient time was provided to the Investigating Agencies to interrogate the accused/petitioner herein. However, all that Investigating Agency was trying to have proved during the course of the entire investigation is that the accused No. 1 Jagadeesh was having acquittance with the petitioner herein. In the event of invoking the provisions of criminal conspiracy being invoked at least some physical manifestation to

indicate about their acquittance is required to be indicated. Thereafter the Learned Senior Counsel has taken this court through the second remand application which was filed on 21.02.2026 wherein, five conditions were imposed and it was stated that the suspicious activities accused was required to be looked into and also the witnesses were required to be interrogated. Apart from that it is a submission that there is no evidence of light risk, no allegation of interference with the investigation nor any incident of trying to win over the witnesses has been made out. Under the circumstances the tripod test as laid down by the Hon'ble Apex Court was clearly in favour of the Petitioner herein. Lastly it is a submission that the incident that had allegedly taken place at Pai layout was not shown as a motive for the incident. Even otherwise the tickets for Kumbhamela at Prayagraj were booked in the month of January 2025 and the incident of quarrel

at the property or preparation as a motive had happened only on 12.02.2025 which was much prior to the alleged date of incident. The entire CDR would only indicate of acquittance and not more than that. In the matters pertaining to circumstantial evidence, it is the duty of the prosecution to indicate the overt act of the accused persons and also the circumstances through which the physical manifestation could be looked into. That apart the Learned Senior Counsel has taken to the statement of CW130 Rajashekar in the charge sheet, which was only a hearsay witness and only that aspect was forthcoming against the present petitioner herein. The learned Senior counsel has relied upon the following authorities in order to butters his submissions which are as follows:

i. **(2012)1 SCC 40 (Sanjay Chandra Vs. CBI)**
ii. **(2018)3 SCC 22 (Dattaram Singh Vs. State of UP)**

iii. (2018)16 SCC 10 (Seema Singh Vs. CBI)

iv. 2024 SCC Online SC 3729 (Partha Chatterjee Vs. ED)

v. (2022)12 SCC 633 (Narcotics Control Bureau Vs. Pallulabbid Ahmed Arimutta)

vi. Shally Mahanth @ Sandeep Vs. State of Punjab (SLP No.[Crl.] 20/2026)

vii. Vinay Kumar Gupta Vs. State of Madhya Pradesh (SLP No.[Crl.] 20215/2025)

11. The learned SPP has filed memo with documents which would indicate of the complaint dated 18.02.2025 allegedly lodged by the deceased person and also certain documents in order to better his submissions. He has also relied upon the judgment mentioned below;

i. (2014)3 SCC 401 (Gulam Sarbar V State of Bihar)

ii. (2022)6 SCC 609 (Ishwarji Nagaji Mali V State of Gujarath)

iii. (2019) 12 SCC 1 (Mohammed Parvey Abdul Kayum Etc)

12. Heard and perused the materials on record. The points that arise for my consideration are as follows:-

1) **Whether the petitioner has made out grounds for admitting him to regular bail under Sec.483 of BNSS Act?**

2) **What order?**

13. My answer to the above points is as follows:

Point No.1: In the Affirmative;

Point No.2: As per final order;

for the following:

REASONS

14. **POINT NO.1:** Shorn of unnecessary details, the brief facts leading to the above case is that a brutal murder of Shivaprakash @ Biklu Shiva had taken place on 15.07.2025 in front of his house by some unknown 8 to 9 assailants. The said incident was witnessed by his driver and also by one Imran Khan and thereafter the criminal law was set into motion on

the basis of the written information lodged by the mother of the deceased. In the said FIR, the name of the petitioner was shown as accused No.5 and later on the Bharathi Nagar Police had registered FIR in Crime No.73/2025 and had got arrested accused No.1 to 4, 6 to 19. During the pendency of the investigation, the case was transferred to CID, Bengaluru for the purpose of investigation and in the interregnum the provisions of KCOCA came to be invoked which was successfully challenged by the petitioner before the Hon'ble High Court of Karnataka which ultimately lead to quashment of the invocation of KCOCA. The petitioner had unsuccessful filed anticipatory bail petitions before this Court and also before the Hon'ble High Court of Karnataka, wherein discritionery relief of anticipatory bail came to be rejected which was ultimately confirmed by the Hon'ble Apex Court. In the midst of the same, the petitioner came to be arrested

and remanded to custody on 12.02.2026. On various grounds the present bail petition has been filed.

15. It is noticed from the records that initially the written information was filed against accused No.1 to 5 and unknown persons by the mother of the deceased. No doubt at the time of initiating the criminal law into motion, the first informant/ complainant will not be in a position to ascertain the entire intrecacies of a case which would require investigation. Even otherwise, it is the settled principle of law that the FIR cannot be considered as an encyclopedia giving remotest and minute detail of the facts of case. In the instant case, initially a notice came to be issued by the Bharathinagar Police Station to accused No.2 and also to accused No.5 for their appearance before the Investigating Officer. In fact it is an admitted fact that accused No.5 had appeared before the then Investigating Officer and subjected

himself to interrogation. However, at that point of time, the petitioner herein had filed a criminal petition before the Hon'ble High Court of Karnataka, wherein an interim order came to be passed restraining the respondent from taking coercive steps. However, the authorities were permitted to continue with their investigation and also to interrogate the petitioner if required. The learned Senior Counsel for the petitioner has vehemently submitted that during the aforesaid period of investigation of about 5 months by the CID to whom the files came to be transferred on account of transfer of investigation from Bharathinagar Police to them, they had not thought it fit to summon the petitioner for the inerrrogation. It is his submission that all throughout the investigation it was contended by the investigating authorities that custodial inerrogation of the petitioner is required since he was

the main conspirator for commission of the murder of Shivaprakash @ Biklu Shiva.

16. In this background, the contentions urged by the parties and also by the prosecution is required to be appreciated. It is noticed from the records that a final report has already been placed before the committal court against accused No.1 to 4, 6 to 19 and whereas the investigation authorities has reserved their opportunity to file additional charge-sheet under Sec.187(3) of BNSS, 2023 as and when the investigation is completed. It is also noticed from the records that subsequently the petitioner had filed an anticipatory bail petition beore this court and even at that juncture it was argued that custodial interrogation is very much essential for effectively bringing out the truth in the above case. As noticed from the records, the deceased Shivaprakash who was an history sheeter and having 16 criminal cases of

henious offences registered against him was into a real estate business and was involved in various land disputes. One such land dispute was pertaining to Pai Layout dispute which had taken place in the year 2024. Thereafter, a quarrel had ensued between the deceased Shivaprakash and that of accused No.1 Jagadish @ Jagga. It is relavent to note that even accused No.1 Jagadish @ Jagga was also a history sheeter and was trying for various criminal cases pending against him. It is the case of prosecution that day by day the prevailing vengeance between the deceased and that of accused No.1 had increased and the blessings of the petitioner acted as a catalyst for commission of murder. It is further submitted that thereafter the deceased had another litigation property situated at Kittaganur, Bengaluru, wherein the deceased was warned not to enter into the premises. However, showing the scant respect to the same, the

deceased Shivaprakash had entered into that land and had even demolished the wall which was being constructed over the said property. The aforesaid incident at Kittaganur had taken place in the month of February-2025, wherein at that point of time the accused No.1 Jagadish along with accused No.20 Ajith had visited Prayagraj for Kumbha Mela and it is also submitted that even the petitioner had travelled in the very same flight to attend Kumbha Mela. The aforesaid facts are pointed out by the prosecution to indicate that it was the triggering point and the motive for commission of murder of Shivaprakash. It is also noticed from the records that on 11.02.2025, a quarrel had ensued between the deceased and that of the accused No.2. At that point of time, the deceased had abused accused No.1 Jagadish in filthy language which later on was viralled in YouTube. The prosecution contends that by looking into the aforesaid

aspects and also by noticing the aggressive conduct of the deceased, the accused persons had hatched a conspiracy to eliminate him and in furtherence of the same the act of murder was committed. However, it is required to consider that whether the quarrel that had taken place in the year 2024 and subsequenlty in the month of February 2025 between some of the accused persons and deceased can be considered as motive and intention to commit the aforesaid offence.

17. It is the settled principles of law that the question of conspiracy is required to be determined on the basis of the circumstantial evidence as no direct materials would be available to indicate the existence or otherwise. In the instant case, it is alleged that the incident was conspired between the accused persons and in order to eliminate the deceased Shivaprakash @ Biklu Shiva, a plan was hatched and in furtherence of the same, he was attacked and later on made to die on

15.07.2025. On perusal of the entire records, it is noticed from the prosecution case that mainly they are highlighting upon the incident that had taken place at Pai Layout. It is also relavent to note that the incident of Pai Layout had lead to registration of various complaints, one by the deceased himself. The learned Senior Public Prosecutor during the course of his arguments has vehemently argued that if the Court looks into the complaint which was registered by the deceased Shivaprakash @ Biklu Shiva on 18.02.2025, the same would be in the form of dying declaration. In my humble opinion, the said aspect cannot be accepted and certainly the submission that the complaint dated 18.02.2025 itself would lead to a dying declaration is not the correct proposition of law for the reason that immediately thereafter the deceased was not murdered nor he was on a death bed while lodging the aforesaid complaint. At the cost of

repitition it is to be noticed from records that several volley of complaints came to be filed by the deceased against the accused persons and also the accused No.1 Jagadish @ Jagga who was also a history sheeter had filed complaint against the deceased. It is noticed from the charge-sheet that the deceased had picked-up quarrel with various persons and was creating ruckus in the society by raising land disputes. It is most humbly submitted that the Court is not certifying the act of any of the persons but is only sifting and weighing the materials to ascertain whether the question of conspiracy can be attributed to the quarrel that had taken place. I have carefully appreciated the contents of the complaint mentioned above. In the said complaint it is narrated that a request was made by the complainant stating that the petitioner herein had made efforts to alter the land records to reflect the fraudulent claims of ownership over the property

including the one which was owned by him. Per contra, the learned Senior Counsel has also submitted certain documents in order to justify his contentions. It is his submission that merely a complaint and another cross complaint came to be filed by both the parties, the same cannot be construed as a motive or intention to commit the crime. Even otherwise, the registration of FIR itself was stayed by the kind orders passed by the Hon'ble High Court of Karnataka.

18. Now coming to the other aspect of the materials which has been collected by the Investigating Agency, the learned SPP has vehemently argued that during the course of investigation it was noticed that immediately after commission of the offence i.e., on 15.07.2025, the tower location of accused No.1 Jagadish @ Jagga was found within the same vicinity as that of tower location of the petitioner herein. In short, it is submitted that both the phone numbers

indicated of being present within a radius of 500 meters. The learned SPP has submitted that 500 meters necessarily does not mean that they were each at a distance of 500 meters but it has to be construed as anything between 1 meter to 500 meters and probably they might have been together immediately after the commission of murder. The aforesaid aspect has been stoutely objected by the leaned Senior Counsel and he has submitted that absolutely no nexus or aspersions can be attributed to the petitioner herein and it is the submission that as per the records, the accused No.1 Jagadish @ Jagga after commission of the murder had reached the International Airport and it is a matter of fact that on his way he has to pass through the road which is in front of the house of the petitioner. In other words, merely because the tower location was showing the radius as 500 meters between the petitioner and accused No.1, it cannot be

presumed that they both had hatched a conspiracy for the commission of murder and that too on the basis of surmises and conjectures. Even otherwise, the learned Senior Counsel has pointed out to the CDR Reports which was placed in the charge-sheet and also by the learned SPP. By pointing out to the same, he has argued vehemently that at no point of time there was any telephonic conversation between the petitioner and accused No.1. It has also been canvassed at bar by the learned Senior Counsel that, apart from merely pointing out that the petitioner had acquaintance with accused No.1, no other materials were pointed out in the entire charge-sheet. It is his submission that no electronic evidence of any kind or CDR messages or any communication between the petitioner and other accused persons just prior to the incident on 15.07.2025 is produced by the prosecution. It is his submission that the investigation had commenced on

15.07.2025 and in spite of lapse of more than 7 months, no concrete materials are available against the petitioner herein. The said submission seems to be correct and appropriate. That apart, it is also submitted that no evidence would whatsoever are issued by the prosecution that the petitioner had knowledge about the incident of 15.07.2025. Even otherwise, it is submitted that no extra judicial confession was made available against the petitioner from that of other co-accused persons. Though the extra judicial confession is a weak evidence under the eyes of law, the Court in order to ascertain the existence or otherwise of a prima-facie material can always look into the statement of the co-accused. In the instant case, around 18 accused persons were arrested and remanded to custody and off-late the accused No.20 Mr. Ajith with whom it is alleged that accused No.5/petitioner was having acquaintance also

does not indicate of any communication or any statement in this regard to justify the case of prosecution.

19. I have also bestowed my anxious reading to the statement of accused No.2 Kiran which is furnished in the charge-sheet and also seperately by the learned SPP. The confession statement of accused that to what in fact the conversation that had taken place between accused No.2, accused No.3 and also with other accused persons. In that conversation it has been stated by accused No.2 Kiran that they had decided to eliminate Shivaprakash and if he was eliminated they can continue with their real estate without any hindrance and further it is narrated by him that they had decided to get surrendered before the Court by waging a legal battle through Mr. Ajith, who was later on arraigned as accused No.20 in this case and also it is stated that accused No.1 had

assured them to take care of their family members who were to be involved in the murder and also had stated that if they require any further help, they can always seek it from the petitioner herein. Apart from the aforesaid words it is noticed from the statement that they had thought of seeking further help from the petitioner. Likewise, the confession statement of accused No.3 Vimal Raj @ Vimal which was also recorded on 10.09.2025 indicates about the very same aspect which is also verbatimly similar. The learned SPP has submitted that though a stray statement referring to the name of the petitioner is made in the confession statement, it would be relavent to look into the manner in which the conspiracy was hatched by the other accused persons and how they had taken it forward. Though the aforesaid statements seems to be attractive at the first instance, it is always relavent to note that confession statement of a co-accused is a

very weak type of evidence and at best it can only lend assurance to the case of the prosecution and nothing more than that can be referred into. In this regard, the Court has relied upon the authority of the Hon'ble Apex Court reported in **(2005) 2 SCC 13 (Jayendra Saraswathi Swamigal Vs. State of T.N.)**, wherein it has been held as follows:

> ***10. Shri Nariman has submitted that in view of Section 30 of the Evidence Act, confession of a co-accused is a very weak type of evidence which can at best be taken into consideration to lend assurance to the prosecution case. He has referred to the decision of the Privy Council in Bhuboni Sahu v. R. [AIR 1949 PC 257 : 50 Cri LJ 872] wherein it was observed that confession of a co-accused is obviously evidence of a very weak type and it does not come within the definition of evidence contained in Section 3 as it is not required to be given on oath, nor in the presence of the accused and it cannot be tested by cross-examination. Learned counsel has also referred to Kashmira Singh v. State of M.P. [(1952) 1 SCC 275 : 1952 SCR 526 : AIR 1952 SC 159 : 1952 Cri LJ 839] where it was held that the confession of an accused person is***

not evidence in the ordinary sense of the term as defined in Section 3 and it cannot be made the foundation of a conviction and can only be used in support of other evidence. It was further observed that the proper way is, first to marshal the evidence against the accused excluding the confession altogether from consideration and see whether, if it is believed a conviction could safely be based on it. If it is capable of belief independently of the confession, then of course it is not necessary to call the confession in aid. But cases may arise where the judge is not prepared to act on the other evidence as it stands even though, if believed, it would be sufficient to sustain a conviction. In such an event the judge may call in aid the confession and use it to lend assurance to the other evidence and thus fortify himself in believing such evidence which without the aid of the confession he would not be prepared to rely on for basing a finding of guilty. Reliance has also been placed upon the Constitution Bench decision in Hari Charan Kurmi v. State of Bihar [(1964) 6 SCR 623 : AIR 1964 SC 1184 : (1964) 2 Cri LJ 344] where it was held that the court cannot start with the confession of a co-accused person; it must begin with other evidence adduced by the prosecution and after it has formed its opinion with regard to the quality and effect of the said evidence, then it is permissible to turn to the confession in order to receive assurance to the

> ***conclusion of guilt which the judicial mind is about to reach on the said other evidence. It was further observed that the confession of a co-accused person cannot be treated as substantive evidence and can be pressed into service only when the court is inclined to accept other evidence and feels the necessity of seeking for an assurance in support of its conclusion deducible from the said evidence. It has thus been urged that the confession of A-4 which was retracted by him subsequently and also that of A-2 have very little evidentiary value in order to sustain the charge against the petitioner.***

20. Apart from the aforesaid self-serving confession statement, there are no materials to indicate the positive overt-act at this juncture. I have also bestowed my anxious reading to the submissions made by the learned SPP with respect to arrest and detention of the petitioner herein. The investigation was commenced in the month of July-2025 and the charge-sheet which is filed against the other accused persons indicates that there are totally 358 witnesses being cited. However, all that it is narrated is that the

accused persons had the blessings of the present petitioner herein. No materials are pointed out in this regard in the entire charge-sheet. I have also considered the statement of CW.130 Sri. Rajashekar S/o Mohan, who according to the prosecution case is the one speaks about the overt-act of the petitioner herein. On perusal of the same would indicate that an incident had taken place at Pai Layout on 15.10.2024, much prior to the alleged murder of deceased and it is narrated that at the time of quarrel one Mr.Shivanna had refused to show the documents and had stated that it was the place where ground breaking ceremony was made by the petitioner herein. Later on it was decided that they would speak with the petitioner and when they had tried to meet the petitioner, the petitioner had refused to speak with him and had stated that he had filed a case before the competent court. Even otherwise, the entire statement indicates

of some hearsay statements. At the cost of repitition it is made clear that the Court is not expressing any opinion about the merits of the case but only looking into the same to ascertain the existence or otherwise of a prima-facie case.

21. I have also bestowed my anxious reading to the settled principles of law. The judgment of the Hon'ble Apex Court reported in (2012)1 SCC 40 (Sanjay Chandra Vs. CBI), wherein it has been held as follows;

> ***21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.***

> ***22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.***

22. In the aforesaid judgment, it is laid down that the Court is required to consider that whether the detention and custody is absolutely necessary for completion of investigation and trial of the case. In the instant case, the investigation is already completed against other accused persons. I have also considered the submission of the learned SPP with respect to the nature of serious allegations being leveled against the

petitioner herein. In this regard, it would be appropriate to rely upon the judgment of the Hon'ble Apex Court reported in **(2018)16 SCC 10 (Seema Singh Vs. CBI)**, wherein it has been held as follows;

> ***18. No doubt, the offence with which Respondent 2 is charged is a serious one. That by itself cannot be the ground to outrightly deny the benefit of bail if there are other overwhelming circumstances justifying grant of bail. The High Court has discussed those factors which are reproduced above in paras 9 and 10. No doubt, the counsel for the appellants have extensively referred to the reports of CRRI, AIIMS, CFSL and IIT. Their evidentiary value is yet to be tested, more so, when these reports are given on the basis of studies undertaken much after the incident.***

23. Apart from that, the learned Counsel for the petitioner has also brought to the notice of this Court with respect to relavency of the CDR at the stage of trial. In this regard, it would be appropriate to rely upon the judgment of the Hon'ble Apex Court reported in ***(2022)12 SCC 633 (Narcotics Control Bureau v.***

***Pallulabid Ahmad Arimutta*)**, wherein it has been held as follows;

> ***11. Having gone through the records along with the tabulated statement of the respondents submitted on behalf of the petitioner NCB and on carefully perusing the impugned orders [Pallulabid Ahamad Arimutta v. State, 2019 SCC OnLine Kar 3516] ' [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 3433] ' [Munees Kavil Paramabath v. State, 2020 SCC OnLine Kar 3431] ' [Abu Thahir v. State, 2019 SCC OnLine Kar 3517] ' [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 1294] ' [Munees Kavil Parambath v. State of Karnataka, 2020 SCC OnLine Kar 3432] passed in each case, it emerges that except for the voluntary statements of A-1 and A-2 in the first case and that of the respondents themselves recorded under Section 67 of the NDPS Act, it appears, prima facie, that no substantial material was available with the prosecution at the time of arrest to connect the respondents with the allegations levelled against them of indulging in drug trafficking. It has not been denied by the prosecution that except for the respondent in SLP (Crl.) No. 1569 of 2021, none of the other respondents were found to be in possession of commercial quantities of psychotropic substances, as contemplated under the NDPS Act.***

12. It has been held in clear terms in Tofan Singh v. State of T.N. [Tofan Singh v. State of T.N., (2021) 4 SCC 1 : (2021) 2 SCC (Cri) 246] , that a confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arrests made by the petitioner NCB, on the basis of the confession/voluntary statements of the respondents or the co-accused under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders [Pallulabid Ahamad Arimutta v. State, 2019 SCC OnLine Kar 3516] , [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 3433] , [Munees Kavil Paramabath v. State, 2020 SCC OnLine Kar 3431] , [Abu Thahir v. State, 2019 SCC OnLine Kar 3517] , [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 1294] , [Munees Kavil Parambath v. State of Karnataka, 2020 SCC OnLine Kar 3432] releasing them on bail. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16-9-2019 [Pallulabid Ahamad Arimutta v. State, 2019 SCC OnLine Kar 3516] , 14-1-2020 [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 3433] , 16-1-2020 [Munees Kavil Paramabath

v. State, 2020 SCC OnLine Kar 3431] , 19-12-2019 [Abu Thahir v. State, 2019 SCC OnLine Kar 3517] and 20-1-2020 [Munees Kavil Parambath v. State of Karnataka, 2020 SCC OnLine Kar 3432] passed in SLP (Crl.) No. arising out of Diary No. 22702 of 2020, SLP (Crl.) No. 1454 of 2021, SLP (Crl.) No. 1465 of 2021, SLPs (Crl.) Nos. 1773-74 of 2021 and SLP (Crl.) No. 2080 of 2021 respectively. The impugned orders [Pallulabid Ahamad Arimutta v. State, 2019 SCC OnLine Kar 3516] , [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 3433] , [Munees Kavil Paramabath v. State, 2020 SCC OnLine Kar 3431] , [Abu Thahir v. State, 2019 SCC OnLine Kar 3517] , [Mohd. Afzal v. Union of India, 2020 SCC OnLine Kar 1294] , [Munees Kavil Parambath v. State of Karnataka, 2020 SCC OnLine Kar 3432] are, accordingly, upheld and the special leave petitions filed by the petitioner NCB seeking cancellation of bail granted to the respective respondents, are dismissed as meritless.

24. In the aforesaid judgment it has been held that the Court is required to consider the CDR only during the course of trial. The learned SPP has also vehemently argued that the petitioner has not fully co-

operated with the prosecution at the time of his custodial interrogation. It is his submission that some vague and misleading answers were given by all the accused persons which would corroborate with the statements rendered by the petitioners herein. However, the question which is required to be considered at this juncture is whether answering to a question not in the manner warranted by the Investigating Agency can be considered as rendering non co-operation to the investigation. It is the settled principles of law that the accused is having right to keep silence even during the course of his interrogation. Even otherwise, it would not be appropriate for the Investigating Agency to expect that the accused would confess of committing the offences. The other limb of submissions that the tower location of the petitioner was seen in the vicinity of accused No.1 Jagadish and accused No.20 Ajith at the time of

attending Kumbha Mela at Prayagraj on 12.02.2025 would not be of much help to the prosecution for the reason that at that point of time even as per their own case no criminal conspiracy was hatched. The last limb of submissions made by the prosecution with respect to flight risk also does not survives for consideration by noticing the fact that the petitioner is having deep roots in the society and also there are no criminal antecedents alleged against him.

25. By looking to the aforesaid aspects and taking into account the facts and circumstances of the case, the contentions urged by the prosecution to detain te petitioner in custody is not justified. Last but not the least, as rightly argued by the learned Senior Counsel with respect to the authority of the Hon'ble Apex Court in the judgment rendered in **1974(3) SCC 277 (State of Punjab Vs. Jagir Singh)**, wherein it has been held as follows;

> ***23. A criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and phantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the crime with which he is charged. Crime is an event in real life and is the product of interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the court has to judge the evidence by the yardstick of probabilities, its intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures.***

26. Under these circumstances, on perusal of the remand application which is filed by the Investigating Agency would indicate that his custodial interrogation is not required and even otherwise the petitioner's custodial interrogation was completed and now he has been remanded to judicial custody. The question of flight risk or apprehension or tampering

the prosecution witnesses can be taken care of by imposing stringent conditions. Ergo, I answered point No.1 in the **affirmative**.

27. **Point No.2**: In view of my findings on point No.1, I proceed to pass the following:-

ORDER

The bail application filed by the petitioner B.A.Basavaraja under Sec.483 of BNSS is hereby allowed and the petitioner is enlarged on bail in Crime No.73/2025 on executing personal bond for Rs.2,00,000/- with two sureties for the like-sum subject to following conditions;

1) The petitioner shall not threaten or tamper the prosecution witness;
2) The petitioner shall not directly or indirectly make an attempt to influence any of the witness;
3) The petitioner shall appear before the Investigating Agency as and when

called by them and render full co-operation for the purpose of investigation, if any;

4) The petitioner shall not leave the jurisdiction of this court or travel abroad without obtaining written permission from the Court;

5) The petitioner shall regularly appear before the Court and co-operate for conducting the trial without seeking unnecessary adjournments;

6) The petitioner shall also appear before the Investigating Officer once in a month on any second Sunday between 09.00 AM to 05.00 PM and he shall mark his attendance for a period of 3 months or till the date of filing the additional complaint if any and whichever is earlier;

7) The petitioner shall file an affidavit furnishing the details of his permanent address, mobile number and email address and Passport Number with an

undertaking that he will not leave the country without obtaining necessary permission from the court.

(Dictated to Stenographer Grade-I, transcribed and typed by her, revised and corrected by me and then pronounced in open court on this the **12th day of March, 2026**)

(Santhosh Gajanan Bhat)
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)
(Special Court exclusively to deal with criminal cases related to elected former and sitting MPs/MLAs in the State of Karnataka)

SANTHOSHGAJANANABHAT

Digitally signed by SANTHOSHGAJANANABHAT
Date: 2026.03.12 17:46:06 +0530