

(2025) 02 KAR CK 0867

In the Karnataka High Court, Dharwad Bench

Case No : Criminal Petition No. 100357 Of 2025 [438(Cr.PC)/482(BNSS)]

Raghavendra @ Raju S/O. Vasantrao Desai & Ors.

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 07-02-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 482

Indian Penal Code, 1860 — Section 34, 406, 417, 420, 465, 468, 471, 504, 506

Citation : (2025) 02 KAR CK 0867

Hon'ble Judges : Ravi V. Hosmani, J

Bench : Single Bench

Advocate : M.A. Pathan, Girija S. Hiremath

Final Decision : Allowed

Judgement

Ravi V. Hosmani, J

1. This petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short) is seeking for anticipatory bail in Crime no.131/2024 of APMC Navanagar Police Station Hubballi for offences punishable under Sections 506, 34, 504, 406, 420, 465, 468, 471, 417 of Indian Penal Code ('IPC' for short) by accused no.5 to 7 (petitioners).

2. Sri M.A.Pathan, advocate appearing for Sri A.A. Pathan, learned counsel for petitioners submitted that petitioners – accused no.5 to 7 were businessmen and permanent residents of Bagalkote/Navanagar, Hubballi respectively, having deep roots in society. They were law abiding citizens and though did not commit any offence, they were apprehending arrest for non-bailable offences, in view of registration of Crime no.131/2024 (supra) arraigning them as accused no.5 to 7, based on false allegations and with intent to spoil their reputation.

3. It was submitted, even in complaint filed by Anita Vaidya (complainant) on 24.12.2024, it was stated that since year 2014, along with her husband, she was into catering business by name "Sri Caterings". And when Smt.Poornima

approached them for work, she was taken as helper. While working, she became close to them and with malafide intention of taking away gold, silver and money lying in house of complainant and her bank account, she gathered information and began creating rift between complainant and her husband. And with intention to cheat them, she acted close to him. She also used to indulge in hand signs, smiling etc in order to gain control over him. On noticing, complainant had warned her. But, Poornima went on to have affair with complainant's husband. And after confronting them both about their affair and finding that same was mutual, she became sad and leaving behind about 150 grams of gold jewelry valued about Rs.7,00,000/-, 2 Kgs. of silver valued at Rs.1,20,000/- and passbook and cheque book of her Bank Acc. no.89066951028 with KVG Bank, Navanagar Branch, behind in her house, she began residing in separate house in Navanagar along with her children.

4. Such being case, at 11:00 a.m. on 12.05.2024, when her elder son was standing near Karnataka Circle along with his friends, her husband told him that Poornima had cheated him and bringing him to stage of begging for survival. Though ignored same for few days, thereafter, she asked him to be brought home. On enquiry, he told her that from year 2014 when Poornima joined their business, she had sole intention of cheating them and embezzling their gold, silver and money. With such ill intention, she had created rift between husband and wife, showed affection towards him to gain his confidence which led to complainant residing in separate house. Thereafter, Poornima began coming to his house, and some times get her children also and earned his absolute trust, for fulfilling her dubious plan. Gradually, she got him to give her and her children Rs.10,00,000/- earned from catering business apart from household articles worth Rs.10,00,000/- which he had kept in her house fearing that complainant would take them away. Thereafter with intention to cheat them, she also forged signature of complainant on cheques of her bank account and from 29.08.2022 to 22.09.2022 withdrew Rs.5,94,000/- and when her daughter's marriage was fixed, she took away 150 gms of gold jewelry without his knowledge melted them into new jewelry and gave them away as dowry. She was alleged to have misappropriated 2 kgs. of silver jewelry etc. also in similar manner. Thereafter, when he confronted her brother – Raju Desai, he had falsely promised to settle everything immediately after wedding of Poornima's daughter.

5. When complainant approached Poornima along with her husband to enquire about gold jewelry and money, all accused joined together and abused complainant and also threatened to take her life away in case, she came to them again. At that time, complainant had filed application before ACP (North), Hubballi, who had summoned Poornima. But, Poornima impressed upon complainant that they were belonging to same community and should sort out their issues between themselves. Even thereafter complainant had persisted in her demand for return of gold, silver, money as well as household articles. Due to same, there was some delay in filing complaint.

6. It was submitted, only overt-acts against petitioners was that they had abused, when complainant had sought intervention to get back her things, they had abused and threatened her verbally. It was submitted, entire grievance of complainant was against Poornima (accused no.1) against whom, a highly belated and vague complaint was filed. It was submitted, petitioners were arraigned only to spoil their reputation. Therefore, sought for granting bail on any conditions.

7. On other hand, Smt.Girija S. Hiremath, learned HCGP however, opposed petition. It was submitted, offences alleged against accused were serious in nature. Especially, under Sections 420 and 468 of IPC were punishable with imprisonment for upto 7 years. There were specific allegations made against petitioners. Moreover, investigation was pending. And if petitioners were granted bail, there was likelihood of fleeing or hampering investigation. On said ground sought rejection of bail petition.

8. Heard learned counsel.

9. From above, point that arises for consideration is:

“Whether petitioners are entitled for anticipatory bail with conditions?”

10. From above, it is seen petitioners substantiated their apprehension of arrest for non-bailable offences, in view of their arraignment in Crime no.131/2024 (supra).

11. Though, nature of offences alleged would appear to be serious, specific allegations insofar as petitioners would be verbal abuse and threatening, when complainant and her husband approached them for demanding her things back.

12. Admittedly, entire focus of complaint is against accused no.1. Prosecution has not secured any material that would directly implicate petitioners. Moreover, none of them are punishable with life imprisonment or death. Though whether commission of offences alleged against petitioners would be matter for trial, since prosecution has not alleged criminal antecedents against petitioners. They are stated to be businessmen and permanent residents of Bagalkote/ Navanagar, Hubballi and except bare apprehensions, no material is produced to substantiate contention about petitioners fleeing justice or tampering with investigation. Same could in any case be addressed by imposing appropriate conditions. Point for consideration is answered in affirmative.

13. Hence, following:

ORDER

Petition is allowed. Petitioners / accused no.5 to 7 shall be enlarged on bail, in case of their arrest in Crime no.131/2024 of APMC Navanagar Police Station Hubballi for offences punishable under Sections 506, 34, 504, 406, 420, 465, 468, 471, 417 of IPC, subject to following conditions:

- a) Each of petitioners shall individually appear before Investigating Officer within 15 days from date of this order and execute personal bonds for sum of Rs.50,000/- with two sureties for likesum.
- b) They shall appear before Investigating Officer as and when required and co-operate with investigation.
- c) Until filing of Charge-Sheet, they shall mark their attendance with Investigating Officer between 9:00 am to 4:00 p.m. on every alternative Saturday.
- d) They shall not threaten, tamper with or influence prosecution witnesses, either directly or indirectly.
- e) They shall not indulge in any criminal activities.
- f) It is clarified that views expressed are prima facie and shall not influence final outcome after trial.