

Reserved on : 20.02.2026
Pronounced on : 13.03.2026



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.141 OF 2026

BETWEEN:

SHIVARAJ S.,
S/O SOMASHEKARAPPA
AGED ABOUT 33 YEARS
R/AT GURUPURA 1ST CROSS
NAJUNDESHWARA ROAD
VIDYANAGARA, SHIVAMOGGA – 577 201.

... PETITIONER

(BY SRI UTSAV GOWDA P. S., ADVOCATE)

AND:

1 . STATE OF KARNATAKA
N.R.PURA POLICE
CHIKMAGALUR DISTRICT – 577 101
REPRESENTED BY SPP
HIGH COURT COMPLEX
BENGALURU -560 001.

2 . CHIEF SUPERINTENDENT
DISTRICT PRISON
CHIKMAGALUR – 577 101

REPRESENTED BY SPP
HIGH COURT COMPLEX
BENGALURU -560 001.

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL. SPP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF BNSS, PRAYING TO QUASH THE ORDER OF REMAND DATED 26.05.2025 AND CONSEQUENTLY RELEASE THE PETITIONER PASSED IN CR.NO.43/2025 OF N.R. P.S. ON THE FILE OF CIVIL JUDGE AND JMFC N.R. PURA WHICH IS NOW PENDING BEFORE II ADDL. DIST. AND SESSIONS JUDGE AT CHIKKAMAGALURU IN SC.NO.113/2025 AND RELEASE THE PETITIONER.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 20.02.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

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

CAV ORDER

The petitioner/accused No.2 is before the Court calling in question remand order dated 26-05-2025 and seeks consequential release of the petitioner in Crime No.43 of 2025 pending before the II Additional District and Sessions Judge, Chikmagalur in S.C.No.113 of 2025 for offence punishable under Sections 103(1) - murder, 55 and 3(5) of the BNS, on the ground that when the petitioner was taken into custody, he was not produced before the

learned Magistrate within 24 hours, which is violative of the Constitutional right under sub-article (2) of Article 22 of the Constitution of India.

2. Heard Sri Utsav Gowda P.S., learned counsel appearing for the petitioner and Sri B.N. Jagadeesha, learned Additional State Public Prosecutor appearing for the respondents.

3. Facts, in brief, germane are as follows: -

A crime comes to be registered in Crime No.43 of 2025 for offences punishable under Sections 55, 103(1) and 3(5) of the BNS. The case of the prosecution is that accused No.1 had given supari to the petitioner/accused No.2 to murder her husband. The accused persons, therefore, had conspired the murder of the husband of accused No.1 and had executed the act on the night of 23-05-2025. The petitioner/accused No.2 was apprehended at Kachinakatte Bus Stop, Shivamogga at 3.30 p.m. on 25-05-2025. He was produced before the Police Sub-Inspector of the 1st respondent/Police Station on the same day and, therefore, he was officially arrested at 5.00

p.m. on the same day by drawing up a detailed arrest panchanama. The details of grounds of arrest and reasons for arrest are furnished to the petitioner and his father. The petitioner was produced before the learned Magistrate on the next day at 5.25 p.m. As per the order of the learned Magistrate, the accused was arrested between 5.30 p.m. and 6.00 p.m. on 25-05-2025, the arrest was notified to the family members and was produced before him the next day at 5.25 p.m. The Police conduct investigation and file a charge sheet against the petitioner for offence of murder. On filing of the charge sheet, the petitioner seeks his release from prison on grant of regular bail. This comes to be rejected on 11-12-2025. After rejection of bail, the petitioner presents the subject petition on a plea that he was not produced before the learned Magistrate within 24 hours and, therefore, the remand application for judicial custody should be obliterated and he should be set at liberty.

4. The learned counsel appearing for the petitioner would reiterate the grounds set out in the petition by contending that there was a delay of one hour fifty-five minutes from the petitioner/accused No.2 being apprehended and delay of twenty-

five minutes from the time of official arrest in producing the accused before the learned Magistrate. He would submit that his fundamental rights are violated and seeks to place reliance upon the judgment of the Apex Court in **DIRECTORATE OF ENFORCEMENT v. SUBHASH SHARMA – 2025 SCC OnLine SC 240** and the judgment of Kerala High Court in **BISWAJIT MANDAL v. INSPECTOR, NARCOTIC CONTROL BUREAU – 2025 SCC OnLine Ker. 6017** to buttress his submissions.

5. Per contra, the learned Additional State Public Prosecutor Sri B.N. Jagadeesha appearing for the respondents would refute the submissions in contending that regular jurisdictional Magistrate was on leave and because of that the accused had to be presented before the in-charge Magistrate. In the process, there was certain delay in producing the accused and this delay is to be condoned since travel time is to be excluded. The delay in violation of guidelines laid down in **D.K. BASU v. STATE OF WEST BENGAL – (1997) 1 SCC 416** cannot be a ground to set the petitioner at liberty. Regular bail is rejected for heinous crime of acceptance of

supari from the hands of accused No.1 and executing the murder. He seeks dismissal of the petition.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record. In furtherance whereof, the only issue that falls for consideration is,

"Whether the petitioner/accused No.2 should be set at liberty on the score that he has not been produced before the learned Magistrate within 24 hours of his arrest?"

7. The afore-narrated facts are not in dispute. Certain time along with date is required to be noticed. On 25-05-2025 a crime comes to be registered in Crime No.43 of 2025. The allegation is that accused No.1 had given supari to petitioner/accused No.2 to murder her husband. The petitioner had executed the murder on the night of 23-03-2025 but he was apprehended at 3.30 p.m. two days later i.e., on 25-05-2025 and taken to the Police Station at about 4.45 p.m. on the same day and by drawing up an arrest panchanama he was officially arrested. The arrest panchanama reads as follows:

“:: ದಸ್ತಗಿರಿ ಪಂಚನಾಮ ::

ಜಿಲ್ಲೆ : ಚಿಕ್ಕಮಗಳೂರು. ವೃತ್ತ : ನ.ರಾ.ಪುರ ವೃತ್ತ. ಠಾಣೆ: ನ.ರಾ.ಪುರ

1.	ಅಪರಾಧ ಸಂಖ್ಯೆ.	43/2025
2.	ಕಲಂ.	55.103(1), 3(5) ಬಿ.ಎನ್.ಎಸ್
3.	ದಸ್ತಗಿರಿ ಮಾಡಿದ ಸ್ಥಳ.	ನ.ರಾ.ಪುರ ಪೊಲೀಸ್ ಠಾಣೆ.
4.	ದಸ್ತಗಿರಿ ಮಾಡಿದ ದಿನಾಂಕ & ಸಮಯ.	ದಿನಾಂಕ:-25-05-2025 ರಂದು 17-00 ಗಂಟೆಗೆ
5.	ಆರೋಪಿಯನ್ನು ವಶಕ್ಕೆ ಪಡೆದ ದಿನಾಂಕ, ಸಮಯ, ಸ್ಥಳ ಮತ್ತು ಯಾರಿಂದ.	ದಿನಾಂಕ:-25-05-2025 0ರಂದು 15.30 ಗಂಟೆಗೆ ಈ ಪ್ರಕರಣದ ಆರೋಪಿಯಾದ ಶಿವರಾಜ್ ಎಸ್ ಬಿನ್ ಸೋಮಶೇಖರಪ್ಪ ಪಿ ನ್ನು ಶಿವಮೊಗ್ಗದ ಕಾಚೇನಕಟ್ಟೆ ಬಸ್ ನಿಲ್ದಾಣದ ಬಳಿ ನಿರಂಜನ್ ಗೌಡ, ಬಿ.ಎಸ್ ಪಿ.ಎಸ್.ಐ ನ.ರಾ.ಪುರ ಪೊಲೀಸ್ ಠಾಣೆ ರವರು ವಶಕ್ಕೆ ಪಡೆದು 16.45 ಗಂಟೆಗೆ ಸಿಬ್ಬಂದಿಗಳೊಂದಿಗೆ ಹಾಜರುಪಡಿಸಿದ್ದು ವಶಕ್ಕೆ ಪಡೆದು 17-00 ಗಂಟೆಗೆ ದಸ್ತಗಿರಿ ಕ್ರಮಕ್ಕೆ ಒಳಪಡಿಸಿರುತ್ತೆ.
6.	ಮಹಜರ್ ಸಾಕ್ಷಿಗಳು. ಶ್ರೀ ಮೊಹಮ್ಮದ್ ಅಲಿ ಬಿನ್ ಮೊಹಮ್ಮದ್ ದಸ್ತಗಿರ್. 41 ವರ್ಷ, ಮುಸ್ಲಿಂ ವಾಸ ಸುಗ್ಗಪ್ಪನ ಮಠ, ನ.ರಾ.ಪುರ ಪಟ್ಟಣ ಮನೀಶ್ ಕುಮಾರ್ ಬಿನ್ ಹರಿಕಿಶನ್, 46 ವರ್ಷ, ಸಿಂದಿ, ವಾಸ ರಾಜಸ್ಥಾನ್ ಹ್ಯಾಂಡ್ ಲೂಮ್, ರಾಪುರ ಟೌನ್, ನ.ರಾ.ಪುರ.	
7.	ದಸ್ತಗಿರಿಯಾದ ಆರೋಪಿಯ ಹೆಸರು & ವಿಳಾಸ.	ಶಿವರಾಜ್ ಎಸ್ ಬಿನ್ ಸೋಮಶೇಖರಪ್ಪ ಪಿ 33 ವರ್ಷ, ಚಾಲಕ ವೃತ್ತಿ ಲಿಂಗಾಯತ ಜನಾಂಗ ವಾಸ ಗುರುಪುರ 01 ನೇ ತಿರುವು, ನಂಜುಂಡೇಶ್ವರ ರಸ್ತೆ, ವಿದ್ಯಾನಗರ ಅಂಚೆ ಶಿವಮೊಗ್ಗ

8.	ಸಂವಿಧಾನದ ಅನುಚ್ಛೇದ 22(1) ಮತ್ತು BNSS 2023 ರ ಕಲಂ: 47(1) ರೀತ್ಯಾ ದಸ್ತಗಿರಿಯ ಆಧಾರಗಳು. (Grounds for Arrest)	(ಪ್ರಕರಣದಲ್ಲಿ ಆರೋಪಿತನ ಪಾತ್ರದ ಕುರಿತು ಒಂದೊಂದಾಗಿ ಸಂಕ್ಷಿಪ್ತವಾಗಿ ತಿಳಿಸುವುದು) 1) ಆರೋಪಿಯು ಕಲಂ 103(1) 3(5) ಬಿ.ಎನ್.ಎಸ್ ಅಡಿಯಲ್ಲಿ, ಅಜೀವ ಕಾರಾವಾಸ ಮತ್ತು ಅಜೀವ ಕಾರಾವಾಸದ ಅಪರಾಧ ಮಾಡಿರುವುದರಿಂದ. 2) ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡದೇ ಇದ್ದಲ್ಲಿ ಪ್ರಕರಣದ ತನಿಖೆಯನ್ನು ಮುಂದುವರಿಸಲು ಸಾಧ್ಯವಿಲ್ಲದೇ ಇರುವ ಕಾರಣ. 3) ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡದೇ ಇದ್ದಲ್ಲಿ ಈ ಕೇಸಿನ ಸಾಕ್ಷ್ಯ ನಾಶ ಮಾಡುತ್ತೀರಿ. 4) ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡಿ ಕೃತ್ಯಕ್ಕೆ ಬಳಸಿದ ವಸ್ತುಗಳು ಮತ್ತು ಕೃತ್ಯದ ಬಗ್ಗೆ ಸಾಕ್ಷ್ಯ ಸಂಗ್ರಹಿಸಬೇಕಾಗಿರುವುದರಿಂದ
9	BNSS 2023 ರ ಕಲಂ: 35(1) A, ರೀತ್ಯಾ ದಸ್ತಗಿರಿ ಮೊದಲ (Reason for Arrest)	(ಪ್ರಕರಣದಲ್ಲಿ ಆರೋಪಿತನ ಬಂಧನದ ಕುರಿತು ಕಾರಣಗಳನ್ನು ಒಂದೊಂದಾಗಿ ಸಂಕ್ಷಿಪ್ತವಾಗಿ ತಿಳಿಸುವುದು) 1) ಆರೋಪಿಯು ಕಲಂ 103(1) 3(5) ಬಿ.ಎನ್.ಎಸ್ ಅಡಿಯಲ್ಲಿ ಅಜೀವ ಕಾರಾವಾಸ ಮತ್ತು ಅಜೀವ ಕಾರಾವಾಸದ ಅಪರಾಧ ಮಾಡಿರುವುದರಿಂದ, 2) ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡದೇ ಇದ್ದಲ್ಲಿ ಪ್ರಕರಣದ ತನಿಖೆಯನ್ನು ಮುಂದುವರಿಸಲು ಸಾಧ್ಯವಿಲ್ಲದೇ ಇರುವ ಕಾರಣ, 3) ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡದೇ ಇದ್ದಲ್ಲಿ ಈ ಕೇಸಿನ ಸಾಕ್ಷ್ಯ ನಾಶ ಮಾಡುತ್ತೀರಿ.

		4) ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡಿ ಕೃತ್ಯಕ್ಕೆ ಬಳಸಿದ ವಸ್ತುಗಳು ಮತ್ತು ಕೃತ್ಯದ ಬಗ್ಗೆ ಸಾಕ್ಷ್ಯ ಸಂಗ್ರಹಿಸಬೇಕಾಗಿರುವುದರಿಂದ
10	ಆರೋಪಿಯ ವಶದಲ್ಲಿ ದೊರೆತ ಸ್ವತ್ತಿನ ವಿವರಗಳು & ಸ್ವತ್ತಿನ ವಿಲೆ.	ಡಿಸ್ಟೆಂಪರ್ ಬಣ್ಣದ ಟೀ ಶರ್ಟ್. 2) ಕಾಫಿ ಬಣ್ಣದ ಪ್ಯಾಂಟ್. 3) ನೀಲಿ ಬಣ್ಣದ ಚಡ್ಡಿ, (ಇವುಗಳನ್ನು ಆರೋಪಿತನ ವಶದಲ್ಲಿಯೇ ಬಿಟ್ಟಿರುತ್ತೆ.)
11	ಆರೋಪಿಯ ಚಹರೆ & ಮೈಮೇಲೆ ಕಂಡು ಬಂದ ಗುರುತುಗಳು/ ವಿಶೇಷತೆಗಳು.	ಕೋಲುಮುಖ, ಸಾದಾರಣ ಮೈಕಟ್ಟು. ಗೋದಿ ಮೈ ಬಣ್ಣ, 5 ಅಡಿ ಎತ್ತರ. ಎಡ ಕೆನ್ನೆಯಲ್ಲಿ ಕಣ್ಣಿನಿಂದ ಕಳೆಗೇಸಣ್ಣ ಕಪ್ಪು ಮಚ್ಚೆ ಇರುತ್ತದೆ.
12	ದಸ್ತಗಿರಿಯಾದ ಬಗ್ಗೆ ಆರೋಪಿಗೆ ಹಾಗೂ ಸಂಬಂಧಿಕರಿಗೆ BNSS 2023 ರ ಕಲಂ: 48(1) ರೀತ್ಯ ನೀಡಿದ ಮಾಹಿತಿಯ ವಿವರಗಳು.	ಸೋಮಶೇಖರಪ್ಪ ಬಿನ್ ಪಕೀರಪ್ಪ ರವರಿಗೆ ಫೋನ್ ಮೂಲಕ ತಿಳಿಸಿರುತ್ತೆ. ಇವರು ಆರೋಪಿಯ ತಂದೆಯಾಗಿರುತ್ತಾರೆ.
13	ಆರೋಪಿಯ ಸಂಬಂಧಿಕರ/ ಪೋಷಕರ ಸಹಿ.	

ಪಂಚಾಯ್ತುದಾರರ ಸಹಿ.

1] ಸಹಿ/-

ಸಹಿ/-

2] ಸಹಿ/-

ಆರೋಪಿಯ ಸಹಿ"

Grounds of arrest and reasons for arrest are served upon the petitioner against his signature. They read as follows:

:: ನಮೂನೆ ::

ದಸ್ತಗಿರಿಯ ಮಾಹಿತಿ (Grounds of Arrest) ಪತ್ರ

ನಂ.....

ನ.ರಾ.ಪುರ ಪೊಲೀಸ್ ಠಾಣೆ.

ದಿನಾಂಕ: 25-05-2025

ರವರಿಗೆ.

ಶಿವರಾಜ್ ಎಸ್ ಬಿನ್ ಸೋಮಶೇಖರಪ್ಪ ಡಿ ಚಾಲಕ ವೃತ್ತಿ ಲಿಂಗಾಯತ ಜನಾಂಗ ವಾಸ ವರ್ಷ 33,ನೇ ತಿರುವು 01 ಗುರುಪುರನಂಜುಂಡೇಶ್ವರ ರಸ್ತೆ ವಿದ್ಯಾನಗರ ಅಂಚೆ ಶಿವಮೊಗ್ಗ.

(ಸಂವಿಧಾನದ ಅನುಚ್ಛೇದ 22(1) ಮತ್ತು ಬಿ.ಎನ್. ಎಸ್.ಎಸ್-2023 ರ ಕಲಂ:

47(1) ರೀತ್ಯಾ ದಸ್ತಗಿರಿಯ ಮಾಹಿತಿ (Grounds of Arrest) ಪತ್ರ.)

ಈ ಕೆಳಗೆ ಸಹಿ ಮಾಡಿರುವ ತನಿಖಾಧಿಕಾರಿಯಾದ ಜ್ಯೋತಿ, ಎನ್.ಎ ಪಿಎಸ್‌ಐ (ತನಿಖೆ) ಆದ ನಾನು ಮೊಕದ್ದಮೆ ಸಂಖ್ಯೆ: 43/2025. ಕಲಂ: 55.103(1), 3(5) BNS ರಂತೆ ಶಿಕ್ಷಾರ್ಹವಾದ ಪ್ರಕರಣದಲ್ಲಿ ತನಿಖೆ ಕೈಗೊಂಡಿದ್ದು, ಲಭ್ಯವಿರುವ ಸಾಕ್ಷಾಧಾರಗಳ ಮೇರೆಗೆ ನೀವು ಈ ಪ್ರಕರಣದಲ್ಲಿ ಭಾಗಿಯಾಗಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಈ ಪ್ರಕರಣದ ಕೃತ್ಯದಲ್ಲಿ ನಿಮ್ಮ ಪಾತ್ರವು ಈ ಕೆಳಕಂಡಂತಿದೆ

(ಪ್ರಕರಣದಲ್ಲಿ ಆರೋಪಿತನ ಪಾತ್ರದ ಕುರಿತು ಒಂದೊಂದಾಗಿ ಸಂಕ್ಷಿಪ್ತವಾಗಿ ತಿಳಿಸುವುದು)

1. ನೀವು ಕಲಂ 103(1) ಬಿ.ಎನ್.ಎಸ್ ಅಡಿಯಲ್ಲಿ ಅಜೀವ ಕಾರಾವಾಸ ಮತ್ತು ಮರಣದಂಡನೆ ಒಳಗಾಗುವ ಶಿಕ್ಷೆಯ ಅಪರಾಧ ಮಾಡಿರುವುದರಿಂದ.
2. ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡದೇ ಪ್ರಕರಣದ ತನಿಖೆಯನ್ನು ಮುಂದುವರೆಸಲು ಸಾಧ್ಯವಾಗುವುದಿಲ್ಲ.
3. ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡದೇ ಇದ್ದಲ್ಲಿ ಈ ಕೇಸಿನ ಸಾಕ್ಷ್ಯ ನಾಶ ಮಾಡುತ್ತೀರಿ.
4. ಪ್ರಕರಣದಲ್ಲಿ ಕೃತ್ಯ ನಡೆಸಿದ ಸ್ಥಳ ಮತ್ತು ಕೃತ್ಯಕ್ಕೆ ಬಳಸಿದ ವಸ್ತುಗಳನ್ನು ನಿಮ್ಮಿಂದ ವಶಪಡಿಸಿಕೊಳ್ಳಬೇಕಾಗಿರುತ್ತೆ.

ಮೇಲ್ಕಂಡ ಕಾರಣಗಳಿಂದ ಮತ್ತು ಲಭ್ಯವಿರುವ ಸಾಕ್ಷ್ಯಧಾರಗಳ ಆಧಾರದ ಮೇಲೆ ದಿನಾಂಕ: 25-05-2025 ರಂದು 17-00 ಗಂಟೆಗೆ ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡಲಾಗುತ್ತಿದೆ. ನಿಮ್ಮ ದಸ್ತಗಿರಿಗೆ ಇರುವ ಆದಾರವನ್ನು ನಿಮಗೆ ತಿಳಿದಿರುವ ಕನ್ನಡ ಭಾಷೆಯಲ್ಲಿ ತಿಳಿಸಲಾಗಿದೆ.

ಸಹಿ/-

(ದಸ್ತಗಿರಿ ಮಾಡುವ ಅಧಿಕಾರಿ ಸಹಿ)

(ಹೆಸರು, ಪದನಾಮ ಮತ್ತು
ಮೊಹರಿನೊಂದಿಗೆ)

POLICE SUB INSPECTOR
N. R. Pura Police Station
Chikmagalur Dist.
Karnataka State-577134

ನನ್ನ ದಸ್ತಗಿರಿಗೆ ಇರುವ ಆಧಾರಗಳನ್ನು ತನಿಖಾಧಿಕಾರಿಯವರು ನನಗೆ ತಿಳಿದಿರುವ ಕನ್ನಡ
ಭಾಷೆಯಲ್ಲಿ, ದಿನಾಂಕ: 25-05-2025 ರಂದು 17-00 ಗಂಟೆಗೆ ವಿವರಿಸಿ ತಿಳಿಸಿರುತ್ತಾರೆ.

ಸಹಿ/-

ಆರೋಪಿಯ ಸಹಿ

....

"ನಮೂನೆ-3

ದಸ್ತಗಿರಿ ಮಾಡಿದ ಬಗ್ಗೆ ಆರೋಪಿಗೆ ನೀಡಲಾಗುವ ದಸ್ತಗಿರಿ ಮೊದಲೇ

ದಿನಾಂಕ:25-05-2025

ಗೆ:-

ಶಿವರಾಜ್ ಎಸ್ ಬಿನ್ ಸೋಮಶೇಖರವ್ವ ಪಿ 33 ವರ್ಷ, ಬಾಲಕ ವೃತ್ತಿ ಲಿಂಗಾಯತ ಜನಾಂಗ ವಾಸ
ಗುರುಪುರ-01 ನೇ ತಿರುವು, ನಂಜುಂಡೇಶ್ವರ ರಸ್ತೆ, ವಿದ್ಯಾನಗರ ಅಂಚೆ ಶಿವಮೊಗ್ಗ.

ದಸ್ತಗಿರಿ ಮೊದಲೇ.

(Reason for Arrest)

ಈ ಕೆಳಗೆ ಸಹಿ ಮಾಡಿದ ತನಿಖಾಧಿಕಾರಿಯಾದ ಜ್ಯೋತಿ,ಎನ್.ಎ ಪಿಎಸ್‌ಐ (ತನಿಖೆ) ನ.ರಾ.ಪುರ ಠಾಣೆ ಆದ
ನಾನು ನ.ರಾ.ಪುರ ಠಾಣೆ ಮೊ.ನಂ43/2025 ಕಲಂ 55.103(1),3(5) ಬಿ.ಎನ್.ಎಸ್ ರ ಪ್ರಕರಣದ
ಅನುಸಾರ ತನಿಖೆಯನ್ನು ಕೈಗೊಂಡಿರುತ್ತೇನೆ. ಈ ಪ್ರಕರಣದಲ್ಲಿ ನೀವು ಶ್ರೀಮತಿ ಕಮಲ ರವರ ಗಂಡ
ಸುದರ್ಶನ್ ರವರನ್ನು ಕೊಲೆ ಮಾಡಲು ದುಷ್ಪ್ರೇರಣೆ ನೀಡಿದ ಕಾರಣ ನೀವು ಸುದರ್ಶನರವರನ್ನು ಕೊಲೆ
ಮಾಡಿದ್ದು ಮೇಲ್ಕಂಡ ಕಲಂ 103(1) 3(5) ಬಿ.ಎನ್.ಎಸ್ ಅಡಿಯಲ್ಲಿ, ಶಿಕ್ಷಾರ್ಹ ಅಪರಾಧ ಮಾಡಿರುತ್ತೀರಿ.

ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ನೀವು ಮೇಲ್ನೋಟಕ್ಕೆ ಅಪರಾಧ ಎಸಗಿದ್ದರ ಬಗ್ಗೆ, ಸಾಕ್ಷಾಧಾರಗಳು
ಲಭ್ಯವಾಗಿದ್ದು ಈ ಕೆಳಕಂಡ ಕಾರಣ ಮತ್ತು ಆಧಾರಗಳ ಮೇಲೆ ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡುವುದು
ಅಗತ್ಯವೆಂದು ಕಂಡುಕೊಳ್ಳಲಾಗಿದೆ.

1. ನೀವು ಕಲಂ 103(1) ಬಿ.ಎನ್.ಎಸ್ ಅಡಿಯಲ್ಲಿ ಅಜೀವ ಕಾರಾವಾಸ ಮತ್ತು ಮರಣದಂಡನೆ
ಒಳಗಾಗುವ ಶಿಕ್ಷೆಯ ಅಪರಾಧ ಮಾಡಿರುವುದರಿಂದ,

2. ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡದೇ ಪ್ರಕರಣದ ತನಿಖೆಯನ್ನು ಮುಂದುವರೆಸಲು ಸಾಧ್ಯವಾಗುವುದಿಲ್ಲ..
3. ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡದೇ ಇದ್ದಲ್ಲ, ಈ ಕೇಸಿನ ಸಾಕ್ಷ್ಯ ನಾಶ ಮಾಡುತ್ತೀರಿ.
4. ನೀವು ಇತರ ಅಪರಾಧವನ್ನು ಮಾಡುವುದನ್ನು ತಡೆಯಲು,
5. ನೀವು ಅಪರಾಧ ಕುರಿತು ಸರಿಯಾದ ತನಿಖೆಯನ್ನು ಮಾಡುವುದಕ್ಕಾಗಿ ಸಹಕಾರ ನೀಡದೇ ಇರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ, ಆದ್ದರಿಂದ
6. ನೀವು ಅಪರಾಧದ ಸಾಕ್ಷ್ಯವನ್ನು ಇಲ್ಲದಂತೆ ಮಾಡುವುದನ್ನು ಆದ್ದರಿಂದ ಯಾವುದೇ ವಿಧಾನದಲ್ಲಿ ಅಂಥ ಸಾಕ್ಷ್ಯವನ್ನು ಅಕ್ರಮವಾಗಿ ತಿದ್ದುವುದನ್ನು ತಡೆಯಲು ಅಥವಾ,
7. ನೀವು ಪ್ರಕರಣದ ಸಂಗತಿಯನ್ನು ತಿಳಿದಿರುವ ಸಾಕ್ಷಿದಾರರಿಗೆ ಆ ಸಂಗತಗಳನ್ನು ನ್ಯಾಯಾಲಯಕ್ಕೆ/ ಲೀಡ್ ಅಧಿಕಾರಿಗಳಿಗೆ ತಿಳಿಸದಂತೆ ಆತನಿಗೆ ಪ್ರೇರೇಪಿಸುವುದನ್ನು, ಬೆದರಿಕೆ ಹಾಕುವುದನ್ನು ಅಥವಾ ಆತನಿಗೆ ವಾಗ್ದಾನ ಮಾಡುವುದನ್ನು ತಡೆಯಲು ಅಥವಾ,
8. ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡದಿದ್ದ ಹೊರತು ಅಗತ್ಯವಿರುವಾಗಲೆಲ್ಲಾ, ನಿಮ್ಮನ್ನು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಹಾಜರುಪಡಿಸಲು ಸಾಧ್ಯವಾಗದೇ ಇರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.

ಕಾರಣ ಈ ದಿನ ದಿನಾಂಕ:-25-05-2025 ರಂದು 17.00 ಗಂಟೆಯಲ್ಲಿ ನ.ರಾ.ಪುರ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಸ್ಥಳದಲ್ಲಿ ಸಾಕ್ಷಿದಾರರಾದ 1)ಮೊಹಮ್ಮದ್ ಅಲಿ ಮತ್ತು 2)ಮನೀಶ್ ಕುಮಾರ್ ಇವರುಗಳ ಸಮಕ್ಷಮದಲ್ಲಿ ನಿಮ್ಮ ಮೇಲೆ ಹೇಳಿದ ಕಾರಣಗಳನ್ನು ಮತ್ತು ಅಪರಾಧಿಕ ಕೃತ್ಯಗಳನ್ನು ತಿಳಿಸಿ ದಸ್ತಗಿರಿ ಮಾಡಲಾಗಿದೆ. ನಿಮ್ಮನ್ನು ದಸ್ತಗಿರಿ ಮಾಡಿದ ಬಗ್ಗೆ ನೀವು ಸೂಚಿಸಿದ ಸಂಬಂಧಿಕರಾದ ನಿಮ್ಮ ತಂದೆ ಸೋಮಶೇಖರಪ್ಪ ರವರಿಗೆ ಪೋನ್ ಮಾಡಿ ದಸ್ತಗಿರಿ ಆದ ಬಗ್ಗೆ ತಿಳಿಸಿದೆ.

ಸಾಕ್ಷಿಗಳ ಸಹಿ : 1. ಸಹಿ/-

2. ಸಹಿ/-

ಸಹಿ/-

ತನಿಖಾಧಿಕಾರಿಯ ಸಹಿ ಮತ್ತು ಸೀಲು
POLICE SUB INSPECTOR
N. R. Pura Police Station,
Chikmagalur Dist.
Karnataka State-577134

ದಸ್ತಗಿರಿಯಾದ ಆರೋಪಿಯ ಮೇಲು ಸಹಿ, ಸಹಿ/-"

The Police conduct investigation and file a charge sheet *inter alia* for offence of murder against the petitioner. The petitioner applies for regular bail on the police filing the charge sheet. The bail comes to be rejected by a detailed order holding that the charge sheet would demonstrate that all the accused are part of a criminal conspiracy to murder the husband of accused No.1. Both the grounds that are now set out before this Court were taken before the concerned Court while seeking the petitioner to be set at liberty. The first attempt fails before the Court of Session in S.C.No.113 of 2025 and the petitioner now attempts to make a second attempt on the same grounds before this Court.

8. The petitioner, in terms of the arrest panchanama, was officially arrested at 5.00 p.m. on 25-05-2025 and produced before the learned Magistrate on the next day at 5.25 p.m. The petitioner was picked up from the bus stop at 3.30 p.m. on 25.05.2025, taken to the Police Station first to draw up an arrest panchanama and then owing to certain confusion as to the in-charge Court for the said day to produce the petitioner, he was produced before the in-charge learned Magistrate at 5.25 p m. on 26.05.2025. The

delay, if official arrest is taken note of, it is 25 minutes and if the plea of the petitioner is taken note of, the moment he was picked up from the bus stop, it is one hour and fifty-five minutes. It, therefore, becomes necessary to notice the provisions and the judicial landscape interpreting these provisions. Article 22(2) of the Constitution reads as follows:

"22. Protection against arrest and detention in certain cases.—(1)"

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate."

Section 57 of the Cr.P.C., which is now Section 58 of BNSS reads as follows:

"58. Person arrested not to be detained more than twenty-four hours. No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 187, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, whether having jurisdiction or not."

Article 22(2) mandates that a detenu or the person who is taken into custody must be produced before the Magistrate within 24 hours. Section 58 of the BNSS also mandates the same.

9. Whether the journey of travel to produce the detenu before the concerned Court should be excluded or otherwise is borne consideration by the Apex Court and different High Courts.

9.1. The Apex Court in **GOURI SHANKAR JHA v. STATE OF BIHAR**¹, holds as follows:

"....

11. The last contention of Mr Ghose was, firstly, that the remand orders passed by the Magistrate were under Section 167 and not Section 344, as the latter section did not apply at that stage, and secondly, that even if Section 344 applied, the Magistrate could not order detention for more than fifteen days in the whole. Section 167 appears in Chapter XIV which deals with information and investigation. As its language shows, it deals with the stage when a person is arrested by the police on information that an offence has been committed. **In providing that such a person must, in terms of Section 61, be produced before a Magistrate within 24 hours after his arrest, the section reveals the policy of the legislature that such a person should be brought before a Magistrate with as little delay as possible. The object of the section is two-fold, one that the law does not favour detention in police custody except in special cases and that also for reason to be stated by the Magistrate in writing, and secondly, to enable such a person to make a**

¹ (1972) 1 SCC 564

representation before a Magistrate. In cases falling under Section 167, a Magistrate undoubtedly can order custody for a period at the most of fifteen days in the whole and such custody can be either police or jail custody. Section 344, on the other hand, appears in Chapter XXIV which deal with inquiries and trials. Further, the custody which it speaks of is not such custody as the Magistrate thinks fit as in Section 167, but only jail custody, the object being that once an inquiry or a trial begins it is not proper to let the accused remain under police influence. Under this section, a Magistrate can remand an accused person to custody for a term not exceeding fifteen days at a time provided that sufficient evidence has been collected to raise a suspicion that such an accused person may have committed an offence and it appears likely that further evidence may be obtained by granting a remand."

The Apex Court holds that the object of producing the arrestee within 24 hours would necessarily mean that the accused should be produced before the Magistrate with as little delay as possible.

9.2. The Apex Court again in **KHATRI (2) v. STATE OF BIHAR**², has held as follows:

"....

7. There are two other irregularities appearing from the record to which we think it is necessary to refer. In the first place in a few cases the accused persons do not appear to have been produced before the Judicial Magistrates within 24 hours of their arrest as required by Article 22 of the Constitution. We do not wish to express any definite opinion in regard to this irregularity which prima facie appears to have occurred in a few cases, **but we would strongly urge upon the State and its police authorities to see that this**

² (1981) 1 SCC 627

constitutional and legal requirement to produce an arrested person before a Judicial Magistrate within 24 hours of the arrest must be scrupulously observed. It is also clear from the particulars furnished to us from the records of the Judicial Magistrates that in some cases particularly those relating to Patel Sahu, Raman Bind, Shaligram Singh and a few others the accused persons were not produced before the Judicial Magistrate subsequent to their first production and they continued to remain in jail without any remand orders being passed by the Judicial Magistrates. This was plainly contrary to law. It is difficult to understand how the State continued to detain these accused persons in jail without any remand orders. We hope and trust that the State Government will inquire as to why this irregularity was allowed to be perpetrated and will see to it that in future no such violations of the law are permitted to be committed by the administrators of the law. **The provision inhibiting detention without remand is a very healthy provision which enables the Magistrates to keep check over the police investigation and it is necessary that the Magistrates should try to enforce this requirement and where it is found to be disobeyed, come down heavily upon the police."**

9.3. The Apex Court in **MANOJ v. STATE OF MADHYA PRADESH³**, has held as follows:

"....

12. If the police officer is forbidden from keeping an arrested person beyond twenty-four hours without order of a Magistrate, what should happen to the arrested person after the said period? **It is a constitutional mandate that no person shall be deprived of his liberty except in accordance with the procedure established in law. Close to its heels the Constitution directs that the person arrested and detained in custody shall be produced before the nearest**

³ (1999) 3 SCC 715

Magistrate within 24 hours of such arrest. The only time permitted by Article 22 of the Constitution to be excluded from the said period of 24 hours is "the time necessary for going from the place of arrest to the court of the Magistrate". Only under two contingencies can the said direction be obviated. One is when the person arrested is an "enemy alien". Second is when the arrest is under any law for preventive detention. In all other cases the Constitution has prohibited peremptorily that "no such person shall be detained in custody beyond the said period without the authority of a Magistrate".

The Apex Court holds that accused cannot be detained for more than 24 hours in terms of Article 22(2) of the Constitution of India. However, the time necessary for going from the place of arrest to the Court of Magistrate is to be excluded from the said period of 24 hours.

9.4. The Apex Court later in **ARNESH KUMAR v. STATE OF BIHAR**⁴, has held as follows:

"...."

8. An accused arrested without warrant by the police has the constitutional right under Article 22(2) of the Constitution of India and Section 57 CrPC to be produced before the Magistrate without unnecessary delay and in no circumstances beyond 24 hours excluding the time necessary for the journey:

⁴ (2014) 8 SCC 273

8.1. During the course of investigation of a case, an accused can be kept in detention beyond a period of 24 hours only when it is authorised by the Magistrate in exercise of power under Section 167 CrPC. The power to authorise detention is a very solemn function. It affects the liberty and freedom of citizens and needs to be exercised with great care and caution. Our experience tells us that it is not exercised with the seriousness it deserves. In many of the cases, detention is authorised in a routine, casual and cavalier manner.”

The Apex Court holds that an accused arrested without warrant has a right to be produced before the Magistrate without unnecessary delay and in no circumstance beyond 24 hours, excluding the time necessary for travel to reach the Magistrate.

9.5. A Division Bench of the High Court of Bombay in **ANIL JAISINGHANI v. STATE OF MAHARASHTRA**⁵, holds as follows:

“....

12. A bare perusal of relevant paragraph of the said Press-Note dated 20th March, 2023 indicates that, it nowhere mentions that the Petitioners were arrested at about 11.45 p.m. of 19th March, 2023 at Godhra, Gujarat. From the aforesaid factual matrix, it is apparent that, the Petitioners and in particular Petitioner No. 1 was detained in the wee hours between 19th March, 2023 and 20th March, 2023. **As per the record, the Petitioner No. 1 was located and accordingly detained at Vejalpur near Bedia Naka within the jurisdiction of Vejalpur Police Station, State of Gujarat at**

⁵ **2023 SCC OnLine Bom. 752**

about 2.25 am. of 20th March, 2023 and therefore according to us, there is no substance in the contention of the learned Senior counsel for the Petitioners that, the Petitioners were arrested on 19th March, 2023. **In the Order dated 21st March, 2023, passed by learned Sessions Judge on the Remand Report, it is observed that, accused were arrested on 20th March, 2023 at 5.00 p.m. after his proper identification as he was absconding in other cases.** Except electronic news nothing is on record to show that accused were arrested on 19th March, 2023 at 11.45 p.m. The reasons put forth by Investigating Officer are satisfactory and therefore arrest cannot be said to be illegal. **We have perused the Remand Report dated 21st March, 2023, wherein it is stated that, accused were arrested on 20th March, 2023 at 17.00 hrs.** Arrest/search panchanama was recorded and reasons for arrest were informed to the accused. The guidelines issued by Supreme Court were followed at the time of their arrest. The information about arrest of accused was given to relative and acquaintance of accused.

13. Article 22(2) of Constitution of India states that, every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of 24 hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate. Whereas Section 57 of the Cr. P.C. provides that, no police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

14. As noted above, the Petitioners were produced before the Court of competent jurisdiction within a period of 24 hours from the time of their arrest. **Assuming for the sake of argument, they were detained at Vejalpur on 20th March, 2023 at about 2.25 a.m. after excluding the period of travel required for the said place to Mumbai, the Petitioners were thereafter produced before the**

concerned Court of competent jurisdiction within the stipulated period. According to us, in the present case there is no breach of Article 22(2) of Constitution of India and/or Section 57 of the Cr. P.C. is committed by the Respondent-State."

The Division Bench holds that 24 hours is calculated from the time of arrest and the time taken to travel to reach the Magistrate can be excluded from the period of 24 hours.

9.6. Again, the High court of Bombay in **ANUJ ALIAS BABU MALHARI CHAVAN v. THE STATE OF MAHARASHTRA**⁶, has held as follows:

"....

13. The first document which indicates about the custody of the accused is entry No. 12, which is taken at 3.13 pm on 9th February 2025. This entry shows that he was referred for medical examination before his arrest. **This is, therefore, prima facie an authentic document which reveal that at 3.13 pm, he was in custody.** There are entries in the general diary which indicate that the accused was required to be sent from Bhore Police custody to Jejuri Police custody. **The accused was produced before the Special Judge at Pune on 10th February 2025 at 5.15 pm. There cannot be dispute with regard to the position of law that the travel time required for production of the accused before the Magistrate needs to be excluded from the computation of 24 hours. Here in this case, the accused is sought to be produced before the Special Judge from Jejuri to Pune. There is**

⁶ Criminal Appeal No.764 of 2025 disposed of on 17-12-2025

no dispute with regard to the fact that the travel time between these two places is more than two hours. Having regard to this fact, it cannot be said that the accused was not produced within 24 hours of his arrest before the Special Judge.

14. Once it is held that he is produced within 24 hours of his arrest excluding the period of travel, it cannot be said that the fundamental rights of the accused guaranteed under Article 22(2) of the Constitution of India as well as Section 57 of the Cr.PC are flouted in any manner. Thus, it cannot be held that the accused has been detained in illegal custody in order to release him on bail. This Court, therefore, finds no merit in the present appeal. Since the appellant has chosen not to seek bail on merit of the case, this Court does not wish to record any findings in that regard."

(Emphasis supplied at each instance)

In the light of the law laid down by the Apex Court in the afore-quoted judgments and that of the Bombay High Court, what would unmistakably emerge is that the delay of 25 minutes in producing the petitioner before the learned Magistrate is not fatal in the case at hand, as it is adequately explained by the prosecution.

10. Therefore, non-production of the accused within the mandatory time in certain circumstances would not vitiate the proceedings. Illustrations galore in terms of what is quoted hereinabove. Therefore, the petitioner is officially arrested in terms

of the arrest panchanama at 5.00 p.m on 25-05-2025 and is produced before the learned Magistrate the next day at 5.25 p.m. In the peculiar facts of this case, the delay is explained and the explanation is acceptable, as it is the travel time or the obfuscation with regard to the Court before whom the petitioner was to be produced.

11. The petitioner has produced google map to show the distance between the bus stop where he was apprehended to the Police Station as 56 minutes and from the Police Station to the Court of the Magistrate being only 2 minutes.. These submissions are made before the Court, and the Court of Session analysing the entire documents and the google map has declined to accept the plea of the petitioner and rejected the regular bail by order dated 11-12-2025. There is no warrant to have a re-look to what the Court of Session has held, particularly in a petition under Section 528 of the BNSS.

12. For the aforesaid reasons, finding no merit in the petition, the petition stands ***dismissed.***

Consequently, pending I.A.No.1 of 2026 also stands disposed.

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

Bkp
CT:SS