



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 31304 OF 2025 (GM-RES)

BETWEEN:

1. SRI B.A. BASAVARAJA
(PRESENTLY MLA AT K.R. PURAM)
S/O LATE ANJINAPPA
AGED ABOUT 61 YEARS
R/AT NO.93/94,
SHANTINIKETANA ROAD
CHANDRAIAH LAYOUT,
MEDAHALLI
BANGALORE - 560 049.

... PETITIONER

(BY SRI SANDESH J. CHOUTA, SENIOR ADVOCATE FOR
SRI HEMANTH KUMAR D., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF HOME
2ND FLOOR, VIDHANASOUDHA
DR. B.R. AMBEDKAR ROAD
BANGALORE - 560 001.
2. THE INSPECTOR GENERAL OF POLICE
CRIMINAL INVESTIGATION DEPARTMENT
OFFICE OF INSPECTOR GENERAL OF POLICE
PALACE ROAD,
BENGALURU - 560 001.





3. SUPERINTENDENT OF POLICE
OFFICE OF SUPERINTENDENT OF POLICE
H & B DIVISION, CID,
BANGALORE - 560 001.
4. DEPUTY SUPERINTENDENT OF POLICE AND
CHIEF INVESTIGATING OFFICER
OFFICE OF SUPERINTENDENT OF POLICE
H & B DIVISION, CID,
BANGALORE - 560 001.
5. THE STATION HOUSE OFFICER
BHARATHINAGAR POLICE STATION
ST. JOHNS CHURCH ROAD
PULAKESHINAGAR SUB DIVISION
BANGALORE - 560 005.

... RESPONDENTS

(BY SRI B.N. JAGADEESHA, ADDL. SPP FOR R1 TO R5)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 12.08.2025 VIDE NO.13/CRIME/H & B/CID/2025 PASSED BY RESPONDENT NO.2 VIDE ANNEXURE K, GRANTING PRIOR PERMISSION TO RESPONDENT NO.4 TO INVOKE SECTION 3 AND 4 OF THE KARNATAKA CONTROL OF ORGANIZED CRIMES ACT, 2000, AS AGAINST PETITIONER IN CRIME NO.73/2025 REGISTERED BY RSPONDENT NO.5 FOR OFFENCES PUNISHABLE UNDER SECTION 103 AND 190 OF THE BHARATIYA NYAYA SANHITHA, 2023 AND ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 20.11.2025 AND COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV



C.A.V. ORDER

PER: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

In the present Writ Petition, the petitioner has sought for issuance of writ in the nature of certiorari to set aside the order at Annexure-'K' dated 12.08.2025 granting permission to the Deputy Superintendent of Police, H & B Division, C.I.D. and Chief Investigating Officer to invoke Sections 3 and 4 of the Karnataka Control of Organised Crime Act, 2000 ['KCOCA' for brevity] as against the petitioner in Crime No.73/2025 registered by the Station House Officer, Bharathinagar Police Station as regards the offences punishable under Sections 103 and 190 of the Bharatiya Nyaya Sanhita, 2023 ['BNS' for brevity].

2. The petitioner has also filed Criminal Petition No.10290/2025, whereby, he has sought for quashing of proceedings in Crime No.73/2025 registered pursuant to FIR in Crime No.73/2025 pending before Bharathinagar Police Station on the file of the X Additional Chief Metropolitan Magistrate at Mayohall, Bengaluru for the



offences punishable under Sections 103 and 190 of BNS. The petitioner has however filed a memo and has sought for withdrawal of the said Criminal Petition.

BRIEF FACTS:-

3. The brief facts are that the petitioner is a Member of Legislative Assembly elected from the K.R.Puram Constituency and presently, an M.L.A. representing Bharatiya Janata Party (BJP). The deceased, Sri Shivaprakash @ Shiva S/o Gajendra and as regards to his murder, FIR having been registered is stated to have made a complaint to the Commissioner of Police on 18.02.2025 against the petitioner herein as being involved in the offences of threatening, extortion, land grabbing, mafia, criminal trespass and criminal conspiracy amongst other offences.

4. It is further made out from the narration of facts that the deceased Shivaprakash had filed another complaint on 21.02.2025 alleging an attempt of extortion



registered in Crime No.21/2025 before Bharathinagar Police Station for the offences punishable under Sections 126(2), 3(5), 329(3), 351 of BNS. It is the assertion of the petitioner that he has not been named in the said complaint.

5. Insofar as registration of FIR as regards such complaint, accused No.1 - Jagadish is stated to have approached this Court by filing W.P.No.5650/2025 seeking quashing of FIR and the further proceedings. It is submitted that this Court was pleased to stay further proceedings in Crime No.21/2025 on 25.02.2025 and the said order of stay is still in operation.

6. Insofar as the complaint dated 25.03.2025 lodged by the deceased with the Ramamurthynagar Police, it is stated that an endorsement of closure has been issued in NCR No.213/2025. It is thereafter on 15.07.2025 that the mother of the deceased lodged a complaint which is registered in Crime No.73/2025 for the offences



punishable under Sections 103 and 190 of BNS. In the FIR registered against the accused persons, the petitioner has been arrayed as accused No.5.

7. It is stated that accused Nos.2, 3, 6 and 8 have been arrested and interrogated, while accused No.1 is stated to be absconding. The petitioner-accused No.5 obtained protection from arrest by an order passed by this Court in Criminal Petition No.10290/2025 on 18.07.2025, whereby, this Court had directed the petitioner to appear before the Police Authorities and the latter to proceed strictly in compliance with the law, viz., in adherence to Sections 35(3), 35(4), 35(5), and 35(6) of the Bharatiya Nagarik Suraksha Sanhita, 2023 ['BNSS' for brevity] as well as the principles laid down by the Apex Court in **Arnesh Kumar v. State of Bihar and Another**¹, **Satender Kumar Antil v. Central Bureau of**

¹ (2014) 8 SCC 273



Investigation and Another² and Arnab Manoranjan Goswami v. State of Maharashtra and Others³.

8. The petitioner asserts that the mother of deceased has retracted the contents of the complaint stating that she had not named anybody in the complaint.

9. On 24.07.2025, it is stated that the investigation in Crime No.73/2025 before the Bharathinagar Police was transferred from local Police Authorities to C.I.D. On 02.08.2025, the C.I.D. after taking over investigation had submitted a proposal for invocation of provisions under KCOCA in Crime No.73/2025.

10. On 12.08.2025, the Inspector General of Police, C.I.D., Bengaluru has passed an order approving invocation of Sections 3 and 4 of KCOCA in Crime No.73/2025. It is this order that has been called in question in the present Writ Petition.

² (2022) 10 SCC 51

³ (2021) 2 SCC 427



CONTENTIONS OF PETITIONER.-

11. Sri Sandesh Chouta, learned Senior Counsel appearing on behalf of the petitioner has made the following submissions:-

(a) That the invocation of the provisions under KCOCA is not legally tenable, as the order reflects non-application of mind;

(b) That the pre-conditions constituting 'Organised Crime' in terms of Section 2(1)(e) of the KCOCA viz., the existence of an 'Organised Crime Syndicate' as defined under Section 2(1)(f) and 'Continuing Unlawful Activity' as defined under Section 2(1)(d) of the KCOCA which are necessary to invoke offences under the Act are absent in the present case;

(c) That unlike as made out in the six chargesheets presented before the Sanctioning Authority/Inspection General of Police, C.I.D., there has to be at least one Member who should be common in all earlier crimes and



material must be available to indicate that the person happens to be a Member of an 'Organised Crime Syndicate';

(d) That there must be material to establish the nexus of petitioner with the organised crime, which is absent in the present case;

(e) That, if approval granted against a person under Section 24(1)(a) of the KCOCA is for investigation into the offences under Section 3 of KCOCA, the requirement of two earlier chargesheets for offences punishable with three years of imprisonment or more on which cognizance is taken is mandatory, but such circumstances is absent in the present case.

(f) That the reference to offences punishable with three years of imprisonment is to be read as "minimum three years or upwards" in terms of **State (NCT of Delhi) v.**



Brijesh Singh alias Arun Kumar and Another⁴ (*Brijesh Singh*).

(g) That the previous two offences should have been committed singly or collectively as part of an 'Organised Crime Syndicate';

CONTENTIONS OF RESPONDENT - STATE.-

12. Sri Jagadeesha B.N., learned Additional State Public Prosecutor appearing on behalf of respondent State has advanced arguments on behalf of Prosecution as follows:-

(a) That the stage at which permission is granted by way of approval under Section 24(1)(a) of KCOCA is at a very preliminary stage of initiating the process and the information available would be only a pre-investigation information. It is contended that the investigation itself commences after recording of information about commission of offence of organised crime and accordingly, not much information would be available at such stage and

⁴(2017) 10 SCC 779



the subjective satisfaction of a Senior Police Officer not below the rank of Deputy Inspector General of Police ought to be given due credence;

(b) As information that is available is only pre-investigation information, the question of addressing specific role of each individual at the time of granting of approval does not arise;

(c) The specific details of *overt act* and evidence to prove the offence are matters for investigation;

(d) It is submitted that grant of approval is akin to the power exercised while registering an FIR in terms of Section 154 of Cr.P.C. (Section 173 of BNSS);

(e) The ingredients of Section 24(1)(a) of KCOCA have been fulfilled in the present case and the requirement of Sections 2(1)(d), 2(1)(e) and 2(1)(f) have been complied with;



(f) The requirement of two chargesheets punishable with offences of three years of imprisonment or more would apply only to the offences punishable under Section 3(1) of KCOCA and not to those offences punishable under Sections 3(2) to 3(5) of KCOCA;

(g) There is no requirement of actual membership of an organised syndicate to attract the provisions of Sections 3(1) and 3(2) of KCOCA.

(h) The requirement at this stage where prior approval has been granted is only *prima facie* and the material regarding role of the accused in the organised crime and nexus of the petitioner with the organised crime syndicate, are all matters that can be looked into at the subsequent stage and in the event, no material is available, in terms of Section 24(2) of KCOCA, cognizance may not be taken by the Special Court.

Learned Additional State Public Prosecutor has placed before the Court the file of the Investigating Agency



relating to Crime No.73/2025 as well as the records of the Authority relating to passing of approval order.

ANALYSIS.-

13. At the outset, it is to be noticed that the challenge to the order of approval granting permission to the Investigating Officer to investigate into offences punishable under Sections 3 and 4 of KCOCA is sought to be subjected to judicial scrutiny by way of a judicial review. The approval of the Police Officer not below the rank of Deputy Inspector General of Police is a condition precedent for recording and registering a case upon information about commission of offence of 'Organised Crime' in terms of Section 24(1)(a) of KCOCA.

14. It is only thereafter that the investigation could be resorted to in terms of Section 24(1)(b) of KCOCA which again is to be commenced only by a Police Officer not below the rank of Deputy Superintendent of Police. This could be construed to be a form of protection to the



accused insofar as investigation would be by a high ranking Police Officer in light of the stringent consequences that would follow by virtue of invoking the provisions under KCOCA.

15. Further safeguard is provided under Section 24(2) of KCOCA which prohibits the Special Court from taking cognizance of any offence unless there is previous sanction by the Police Officer not below the rank of Additional Director General of Police.

16. At this very nascent stage of initiating the process of invoking the provisions of KCOCA, the order of prior approval under Section 24(1)(a) is sought to be challenged.

17. Section 24(1) of KCOCA reads as follows:-

"24. Cognizance of and investigation into an offence. - (1) Notwithstanding anything contained in the Code, -

(a) No information about the commission of an offence of organized crime under this Act shall be recorded by a police officer without the prior



approval of the police officer not below the rank of the Deputy Inspector General of Police;

(b) No investigation of an offence under the provisions of this Act shall be carried out by a police officer below the rank of the Deputy Superintendent of Police.

It would be relevant to notice that for the purpose of invoking the provisions of KCOCA, it is necessary that there has to be an 'Organised Crime' as defined under Section 2(1)(e) and there must be 'Continuing Unlawful Activity' in terms of Section 2(1)(d).

18. Sections 2(1)(d) and 2(1)(e) of KCOCA read as follows:-

"2. Definitions:-

"2(1)(d): "Continuing unlawful activity" means an activity prohibited by law for the time being in force, which is a cognizable offence punishable with imprisonment of three years or more, undertaken either singly or jointly, as a member of an organized crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheet have been filed before a competent



Court within the preceding period of ten years and that Court has taken cognizance of such offence;

2(1)(e): "Organized crime" means any continuing unlawful activity by an individual, singly or jointly, either as a member of an organized crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency;"

19. It becomes clear that there has to be an 'Organised Crime' i.e., 'Continuing Unlawful Activity' in terms of Section 2(1)(d) of KCOCA. The punishment for 'Organised Crime' under Section 3(1) of KCOCA in case of direct involvement would be as provided under Section 3(1)(i) and 3(1)(ii), while Section 3(2) provides for punishment in the case of a person who conspires, attempts to commit or advocates, abets or knowingly facilitates commission of an organised crime or any act preparatory to organised crime. Section 3(3) of KCOCA



provides for punishment in case of a person who harbors or conceals or attempts to harbor or conceal any member of an organised crime syndicate. Section 3(4) provides for punishment in the case of a person who is a member of an organised crime syndicate and Section 3(5) provides for punishment where any person holds any property derived or obtained from commission of an organised crime or which has been acquired through the organised crime syndicate funds.

20. It thus becomes clear that Section 3(1) of KCOCA contemplates direct involvement in the commission of organised crime, while Section 3(2) to 3(5) provides for punishment even in the case of indirect involvement as stipulated under Sections 3(2) to 3(5).

21. It is to be noticed that the role of accused vis-à-vis organised crime under KCOCA and as to whether the charge against the accused is under Section 3(1) or Section 3(2) to 3(5), is a matter that would be made out



only after completion of investigation and filing of Final Report. Whereas the petitioner had contended that the order of approval is defective due to it not outlining the specific role of the petitioner in the organized crime, the legal position in **Kavitha Lankesh v. State of Karnataka and Others**⁵ [*Kavitha Lankesh*] clarifies otherwise. The relevant portion of the decision in para-26 is extracted hereinbelow:-

"26. ... The prior approval was not for registering crime against individual offenders as such, but for recording of information regarding commission of an offence of organised crime under the 2000 Act. Therefore, the specific role of the accused concerned is not required to be and is not so mentioned in the stated prior approval. That aspect would be unravelled during the investigation, after registration of offence of organised crime. ..."

22. It is also clarified that the requirement of two chargesheets with punishment of imprisonment of more than three years is a test only as regards the person

⁵(2022) 12 SCC 753



charged with offence under Section 3(1) of KCOCA. The Apex Court in ***Kavitha Lankesh (supra)*** has specified that as regards the role of the offender qualifying to be charged under Section 3(2) to 3(5) of KCOCA need not stand the test of two chargesheets with offence punishable more than three years of imprisonment. The relevant portion of the decision in para-32 is extracted hereinbelow:-

"32. ... However, if the role of the offender is merely that of a facilitator or of an abettor as referred to in Sections 3(2), 3(3), 3(4) or 3(5), the requirement of named person being involved in more than two charge-sheets registered against him in the past is not relevant. Regardless of that, he can be proceeded under the 2000 Act, if the material collected by the investigating agency reveals that he had nexus with the accused who is a member of the organised crime syndicate or such nexus is related to the offence in the nature of organised crime. Thus, he need not be a person who had direct role in the commission of an organised crime as such."



23. However, it becomes clear that the question of considering whether the accused could be charged under Section 3(2) to 3(5) of KCOCA would arise only if at least one of the accused is charged under Section 3(1) which would require the satisfaction of at least two chargesheets involving offences punishable with imprisonment of more than three years. If, even as regards single offender, the test referred to above is not satisfied, then the entirety of the proceedings charging the offence invoking the provisions under KCOCA would fail.

24. It may be appropriate to refer to the contention of learned Senior Counsel Sri Sandesh Chouta appearing on behalf of the petitioner that invocation of the provisions under KCOCA must be as against the offender. However, such contention has been dealt with specifically by the Apex Court in ***Kavitha Lankesh (supra)***. The observations made at para-32 settles the issue and the relevant portion is extracted hereinbelow:-



"32. ... The competent authority has to focus essentially on the factum whether the information/material reveals the commission of a crime which is an organised crime committed by the organised crime syndicate. In that, the prior approval is qua offence and not the offender as such. As long as the incidents referred to in earlier crimes are committed by a group of persons and one common individual was involved in all the incidents, the offence under the 2000 Act can be invoked. This Court in Prasad Shrikant Purohit [Prasad Shrikant Purohit v. State of Maharashtra, (2015) 7 SCC 440 : (2015) 3 SCC (Cri) 138] in SCC paras 61 and 98 expounded that at the stage of taking cognizance, the competent court takes cognizance of the offence and not the offender."

25. It is in such context that the order of approval is to be looked into. Being cognizant of the position that the provisions under KCOCA is invoked against the offence and not against the offender, still it would be necessary to state that the order of approval must be passed after application of mind and that at the least, there must have been some material that *prima facie* establishes a nexus



between the accused and the organised crime directly or indirectly in light of the width of Section 3(2) to 3(5) of KCOCA. This would be a requirement in light of the onerous consequences that would visit the accused upon invoking the provisions under KCOCA.

26. The order of approval dated 12.08.2025 in terms of approval mandated under Section 24(1)(a) of KCOCA has been granted to invoke the provisions under KCOCA with respect to the offence registered in Crime No.73/2025.

27. A close perusal of the said order of approval would indicate reference to previous criminal cases of the individuals named as accused in Crime No.73/2025. The order refers to the accused persons being engaged in real estate transactions fraught with unlawful activities and also specifically adverts to the role of certain accused persons in the conspiracy leading to the murder of the deceased in Crime No.73/2025, who allegedly was



involved in a dispute against the accused relating to the fencing of site which belonged to Mr.Ravi. It is narrated in the said order that the accused No.2 - Kiran, accused No.1 - Jagadish and accused No.3 - Vimal Raj with intent to gain advantage in real estate business within the locality had formed an organised crime syndicate and accordingly, it is opined that case was made out for invoking the provisions of KCOCA for the offence.

28. The following is a reference to the relevant extracts of the report which would indicate that the prior approval was granted in the context of the accused persons involving themselves in criminal activity related to real estate transactions.

"Based on the available evidence, it appears that A3-Vimal, in concert with other co-accused persons, acting singly or jointly engaged in unlawful activities within the real estate sector, including acts of extortion and other illicit conduct..."



Additionally, Al-Jagadeesh @ Jagga was engaged in real estate transactions during the relevant period.

The evidence thus far collected indicates that accused Al-Jagadeesh @ Jagga conspired with an organized crime syndicate comprising A3-Vimal and A7-Madan and others to eliminate the deceased, who posed an obstacle to their unlawful operations. The deceased was engaged in operating a real estate office in the Horamavu area, employing a team of approximately forty to fifty individuals to establish dominance in the locality, particularly in opposition to Al-Jagadeesh @ Jagga J-3 ...

Based on the evidence collected thus far, it appears that the accused persons A2-Kiran, Al-Jagadish@ Jagga, and A3-Vimalraj, with the intent to gain an advantage in the real estate business within the locality, formed an organized crime syndicate and conspired to commit the murder of Shivaprakash in the month of April 2025. ...

As seen from the evidences collected from investigation officer so far, the accused persons A2-Kiran, Al-Jagadish@ Jagga and A3-Vimalraj in order to gain upper hand in the real estate business over the locality formed organsied crime syndicate and conspired to murder the Shiva



Prakash in month of April 2025, and approached other accused persons by name A16-Sudarshan @ Chikku, A14-Narasimha Murthy @ Simha, A17-Avinash Abhi. Murugesh.K. A13-A.Prasad, A10-Naveen Kumar, A9-Arun Kumar, A8-Samuel, to join to execute the conspiracy.."

29. The definition of 'Organised Crime' under Section 2(1)(e) of KCOCA refers to 'Continuing Unlawful Activity' committed by an individual, singly or jointly, either as a member or on behalf of an organised crime syndicate. Section 2(1)(d) defines 'Continuing Unlawful Activity' and would indicate involvement of the accused persons singly or jointly as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one chargesheet has been filed before a competent Court in the last ten years when the Court has taken cognizance of such offence.

30. A holistic reading of Section 2(1)(d) and 2(1)(e) of KCOCA would indicate that as regards a member of the organised crime syndicate, there must be involvement of



such member individually or jointly in cognizable offence punishable with imprisonment of three years or more with respect to atleast more than one chargesheet having been filed in that regard before a competent Court.

31. For the purpose of fulfilling the requirement of "three years or more", the punishment prescribed ought to mention imprisonment not less than three years. The observations made by the Apex Court in ***Brijesh Singh (supra)*** which is of relevance is extracted hereinbelow:-

"33. ... Only an unlawful activity which is a cognizable offence punishable with minimum sentence of three years or more would be a continuous unlawful activity under Section 2(1)(d) of the Act."

This aspect having been overlooked by the approval authority would reflect non-application of mind.

32. The order of approval has detailed the criminal antecedents of the other accused in Crime No.73/2025 and has enumerated the offences and punishment for the



same. As regards accused persons, other than accused No.18, i.e. Patrick, a perusal of offences and the punishment prescribed with regard to accused No.2 – Kiran S/o late Krishna, accused No.3 –Vimalraj S/o Babu Raju, accused No.7 – Madan S/o Rajan and accused No.19 - Kiran. K S/o Kallappa would indicate that the punishment prescribed would not qualify the requirement of “imprisonment of three years or more”.

33. The following Table would clarify the factual matrix:-

Sl. No.	Name of the accused	Police Station and Crime Number	CC No./SC No.	Charged Sections	Punishment for offences
1	A-2 Kiran S/o late Krishna	Ramamurthy Nagar PS Cr.No.528/2024	CC No.63660/2025	Section 115(2), 118(1), 351(2), 352 R/w 3(5) of BNS	Upto three years
2	A-3 Vimalraj S/o Babu Raj	Ramamurthy Nagar PS Cr.No.88/2021	CC No.51987/2022	Section 144, 143, 147, 148 323, 324, 326, 307 448, 427, 460, 504, 506, 149 of IPC and Section 25(1)(B)(b) of Arms Act, 1959	Not with minimum imprisonment of three years or more
3	A-3 Vimalraj S/o Babu Raj	Ramamurthy Nagar PS Cr.No.528/2024	CC No.63660/2025	Section 115(2), 118(1), 351(2), 352, R/w 3(5) of BNS	Upto three years
4	A-7 Madan S/o Rajan	Ramamurthy Nagar PS Cr.No.88/2021	SC No.51987/2022	Section 144, 143, 147, 148, 323, 324, 326, 307, 448, 427, 460, 504, 506, 149 of IPC and Section 25(1)(B)(b) of Arms Act, 1959	Not with minimum imprisonment of three years or more



5	A-7 Madan S/o Rajan	Ramamurthy Nagar PS Cr.No.510/2023	CC No.52767/2025	Section 307, 201, 149 of IPC	Not with minimum imprisonment of three years or more
6	A-19 Kiran K S/o Kallappa	Kolar District, Maluru PS Cr.No.445/2023	SC No.24/2024	Section 109, 120(b), 302, 212, 201 R/w 149 of IPC	Not with minimum imprisonment of three years or more

34. It becomes clear that the punishment for offences contemplated under Section 2(1)(d) of KCOCA is that the offence should be punishable with imprisonment of three years or more. A perusal of the punishment in column No.6 would indicate that as regards each of the accused referred to in the Table hereinabove, the punishment prescribed is without prescription of a mandatory punishment of three years or more.

35. A perusal of the Table in the order of approval extracted hereinbelow would indicate that two charge sheets have been filed as regards accused No.18 - Patrick S/o Peeter in Crime No.73/2025, each alleging offences



punishable with a term of imprisonment of three years or more:-

Sl. No.	Name of the accused	Police Station and Crime Number	CC No./SC No.	Charged Sections	Punishment for offences
1	Patrick S/o Peeter	Indiranagar PS Cr.No.50/2017	SC No.1684/2018	Section 397, 120B of IPC	More than three years
2	Patrick S/o Peeter	Pulakeshinagar PS Cr.No.90/2017	SC No.1182/2017	Section 341, 302, 201,203, 120B R/w 149 of IPC	More than three years

36. The offences mentioned in S.C.No.1684/2018 is an offence where punishment prescribed is not less than seven years. As regards the offences which are the subject matter in S.C.No.1182/2017, they include Section 302 which would make the punishment not less than life imprisonment.

37. In order to interpret the term 'Continuing Unlawful Activity', it could be stated that the chargesheets filed are required to establish a continued link as regards the nature of offences. In the present case, the order of prior approval seeks to make out a case of unlawful activity committed in relation to real estate transaction.



In such context, it is required to examine if there is any common thread atleast against accused No.18 -Patrick against whom there are two chargesheets filed as regards cognizable offences punishable with punishment of more than three years.

38. Reference can be made to Column No.17 of the chargesheet as regards cases against accused No.18 - Patrick S/o Peeter, which would reveal the following:-

(a) Column No.17 of the chargesheet, S.C.No. 1182/2017 filed in Crime No.90/2017:- The deceased G. Kumar was the husband of accused No.4-Dorin Kumar, who allegedly had illicit relationship with various women and was harassing accused No.4 (wife). It is stated that the accused No.4 with an intention to kill her husband approached the accused No.5-Shridhar and offering a sum of Rs.30.00 lakhs, had given supari to kill her husband. It is stated that pursuant to such common intention, the accused



persons, including Patrick had assaulted the deceased with chopper on his head and face, who succumbed to injuries.

(b) Column No.17 of the chargesheet SC No. 1684/2018 in Crime No.50/2017:- The accused Nos.1 to 6 in the said case which included Patrick entered into a criminal conspiracy. When CW-2 and CW-3 were proceeding to the Bank, they were followed and robbed of their money by the accused persons. Accused No.1 in that case is said to have assaulted CW2 with knife and stolen from him a sum of Rs.19.00 lakhs. Accused No.2 also threatened CW3 and snatched another bag from him while assaulting him.

39. A *prima facie* perusal of Column No.17 of the chargesheet in the above two offences would indicate two distinct offences, i.e. in Crime No.90/2017, wherein Patrick was involved alongwith others in a fatal assault relating to



the execution of a supari given by the allegedly harassed wife of the deceased. On the other hand, Crime No.50/2017 deals with the offence of robbery and assault of persons in possession of money.

40. *Prima facie*, the gist of investigation in Column No.17 as regards both the cases referred to supra do not reflect the offence in relation to real estate. While use of criminal force and causing harm may be common in both, the 'Continuing Unlawful Activity' with the object of real estate pecuniary advantage as indicated in the order of approval is absent.

Accordingly, it can be stated that the legal requirement of organised crime which involves 'Continuing unlawful activity' as contemplated under Sections 2(1)(d) and 2(1)(e) of KCOCA are not satisfied.

41. None of the other accused persons have against them two chargesheets involving offences of punishment of more than three years.



42. Accordingly, while noticing that it is only against accused No.18 - Patrick that there were two chargesheets that would fall within the requirement of punishment of imprisonment with three years or more, which however, would not fall within the definition of 'Organised Crime' as contemplated under Section 2(1)(e) of KCOCA. In light of the discussion made supra, the order of approval is defective.

43. The invoking of the provisions under KCOCA would not stand legal scrutiny. While it is indeed correct that invocation of KCOCA is against the 'crime' and not the 'accused', however, the legal requirement would mandate that there has to be 'Continuing Unlawful Activity' for which the ingredients of Section 2(1)(d) of KCOCA requires to be satisfied, which is absent, in light of the discussion made above.

44. Accordingly, in light of the order of approval not standing legal scrutiny in light of the discussion made



supra, the order of approval at Annexure-'K' dated 12.08.2025 is set aside. As the invocation of KCOCA is against the offence, the order of approval is not particular to the offender, and its setting aside in the present petition though at the instance of one accused has the effect of setting it aside in its entirety.

Accordingly, the writ petition is ***allowed.***

ORDER ON I.A.No.1/2025 FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS:-

45. I.A.No.1/2025 has been filed seeking the following reliefs:-

(a) direction to the respondent Police not to arrest the petitioner in connection with Crime No.73/2025 registered by Bharathinagar Police Station, or alternatively

(b) grant bail to the petitioner in the event of his arrest;

(c) pass other orders/directions;



46. The petitioner submits that the investigation that has been conducted by the jurisdictional Police was transferred to C.I.D. on 24.07.2025. It is submitted that the petitioner has been co-operating with the investigation and no notice is issued summoning him for further investigation. It is however submitted that the Inspector General of Police, C.I.D., has granted approval for invocation of the provisions under KCOCA.

47. It is further submitted that no incriminating material is found as against the petitioner to show his participation in the offence and that the petitioner has been falsely implicated in the case to tarnish his reputation.

48. It is also contended that the ingredients of offence under KCOCA have not been satisfied justifying its invocation.

49. It is submitted that the petitioner is a law abiding citizen, that proceedings have been initiated on



the basis of political vendetta, that the allegations against the petitioner are only on the basis of suspicion that he has been partially interrogated and is willing to co-operate with further investigation.

50. It is also submitted that in light of the bar under Section 22(3) of KCOCA, the petitioner will not be in a position to seek anticipatory bail before the Sessions Court and he has to approach this Court with no other alternative remedy.

51. The petitioner submits that he is willing to abide by the appropriate conditions as may be imposed by this Court.

52. The statement of objections has been filed by the respondent State to the main petition. The written synopsis is also filed. Further arguments have been advanced opposing the grant of bail by the respondents. The salient points advanced are referred to below.



It is stated that invocation of the provisions under KCOCA is justified, since it is resorted to in public interest considering the gravity of the offences and necessity to prevent organised criminal activity. It is submitted that the offence is brutal, investigation is still in progress and evidence is being collected. It is further submitted that deceased had made a written complaint dated 18.02.2025 addressed to the Commissioner of Police seeking Police protection and explicitly naming the petitioner and expressing threat to his life from the petitioner and his associates, which factors need to be taken note of while considering the request for bail.

53. It is also narrated that pursuant to another complaint dated 21.02.2025, Crime No.21/2025 was separately registered. It is specifically averred that the ingredients of the offences under KCOCA are indeed established and has therefore sought for dismissal of the interlocutory application.



54. At the outset, it must be noticed that Crl.P.No.10290/2025 has been filed seeking for setting aside of the proceedings in Crime No.73/2025 registered for the offences punishable under Section 103 and Section 190 of BNS.

55. Insofar as Crl.P.No.10290/2025, a memo has been filed by the learned counsel for the petitioner seeking to withdraw the petition, reserving liberty to pursue other remedies.

56. The application, I.A.No.1/2025 seeking bail is filed in W.P.No.31304/2025, where the main relief relates to setting aside of the order at Annexure-`K` dated 12.08.2025 granting prior permission to invoke Sections 3 and 4 of KCOCA as against the petitioner in Crime No.73/2025.

57. In W.P.No.31304/2025, this Court has set aside the order at Annexure-`K` dated 12.08.2025 granting prior approval for invoking the provisions under KCOCA; once



the Writ Petition is allowed, the question is whether the Court could pass an order on the bail application.

58. At the outset, it must be noticed that the reason assigned in approaching this Court directly is on the premise that the application for anticipatory bail cannot be maintained as regards the offences under KCOCA. Such bar can no longer be pleaded in light of allowing of the writ petition.

59. It is settled position that where petition under Section 482 of Cr.P.C. is being dismissed, resort to granting bail under Article 226 of the Constitution of India is only under exceptional circumstances.

60. CrI.P.No.10290/2025 filed under Section 528 of BNSS, is now sought to be withdrawn. It is necessary to observe that no relief is sought in the nature of bail in the petition filed under Section 528 of BNSS. Instead, in the present Writ Petition, an interlocutory application seeking



anticipatory bail is considered in terms of the discussion infra.

61. CrI.P.No.10290/2025 is de-linked from W.P.No. 31304/2025 and order is passed separately, in light of memo for withdrawal filed by the petitioner on 20.11.2025.

62. Normally, the petitioner is entitled to go before the Sessions Court and seek for appropriate relief. Such legal option is open to the petitioner at this stage.

63. This Court finds no grounds made out for the exercise of extraordinary power under Article 226 of the Constitution of India in the present proceedings to grant anticipatory bail to the petitioner.

64. It is to be noticed that the investigation in Crime No.73/2025 is still not concluded. Though partial interrogation has been made, however, at the time of



arguments, the respondent State had taken a stand that custodial interrogation is required.

65. Though this Court may have the power to grant anticipatory bail in exercise of power under Article 226 of the Constitution of India, however, such exercise of power is in exceptional circumstances which this Court finds it absent in the present case.

66. This Court finds *prima facie* force in the contention of the learned Additional State Public Prosecutor. The custodial interrogation which is legal option available to the Investigating Agency and there is no reason to deny such exercise of power. Further, the material would indicate that the deceased had in writing stated that henchmen of the petitioner had threatened him.

67. In light of the same, the Court is not inclined to exercise the extraordinary power under Article 226 of the Constitution of India, particularly, in light of the factual



matrix referred to above. Further, investigation is still to be completed, and an order granting anticipatory bail may interfere with investigation of a heinous offence.

Accordingly, I.A.No.1/2025 filed in W.P.No.31304/2025 is ***rejected***.

68. The observations made are limited to the disposal of the present interlocutory application and must not be construed to be a conclusive finding on the merits of the matter. The liberty is reserved to the petitioner to seek for appropriate relief of bail as is permissible in law before the appropriate Court. All contentions are kept open.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

VGR