HC-KAR

NC: 2026:KHC:24644-DB
CRL.A No. 812 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF MAY, 2026

PRESENT

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL APPEAL NO. 812 OF 2026 (21(NIA))

BETWEEN:

MR. IRFAN PASHA
S/O. ABDUL MAJEED,
AGED ABOUT 32 YEARS,
PRESENT ADDRESS
NO. 374, AGS MANSION,
14TH CROSS, ARABIC COLLEGE POST,
GOVINDAPURA, BENGALURU,
PERMANENT ADDRESS
NO. 827, 14TH CROSS,
NEAR SHOE FACTORY,
OPPOSITE INDIAN MEDICAL,
GOVINDAPURA MAIN ROAD,
ARABIC COLLEGE POST,
K.G. HALLI POLICE STATION,
BENGALURU-560 045.

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

...APPELLANT

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. NATIONAL INVESTIGATION AGENCY
MINISTRY OF HOME AFFAIRS,
BRANCH OFFICE, BENGALURU,
#3RD FLOOR, BSNL TELEPHONE EXCHANGE,
HAL 2ND STAGE, INDIRANAGAR,

BANGALORE-560 008,
REPRESENTED BY ITS
SUPERINTENDENT OF POLICE

…RESPONDENT

(BY SRI. P. PRASANNA KUMAR, SPL. PP)

THIS CRL.A IS FILED U/S 21(4) NIA PRAYING TO APPRECIATE THIS APPEAL AND ASIDE THE IMPUGNED ORDER DATED 30.04.2026 AT ANNEXURE-A PASSED IN SPL.CC NO.181/2017 OFFENCES P/U/S 302, 201 R/W SECTION 34 OF IPC AND SECTION 3 AND 27 OF ARMS ACT AND U/S 15, 16, 17, 18, 20 OF UNLAWFUL ACTIVITIES (PREVENTION) ACT 1967 PASSED BY THE HON'BLE XLIX ADDL.CITY CIVIL AND SESSIONS JUDGE (SPECIAL COURT FOR TRIAL OF NIA CASES) AT BENGALURU AND CONSEQUENTLY GRANT INTERIM BAIL TO ACCUSED NO.1/APPELLANT FOR THE PERIOD OF 3 DAYS TO APPELLANT TO ATTEND AND PARTICIPATE IN 40TH DAY PRAYER EVENT OF HIS ONLY DECEASED SISTER SMT.SHAHEDA YASMEEN SCHEDULE ON 08 TO 10 MAY 2026 BY APPRECIATING THE BAIL APPLICATION U/S 439(1) OF CRPC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM
and
HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT
(PER: HON'BLE MR. JUSTICE RAJESH RAI K)

The appellant/accused No.1 has assailed the order dated 30.04.2026 passed by the XLIX Addl City Civil and Sessions Judge [Special Court for Trial of NIA Cases] at Bengaluru (hereinafter referred to as 'Trial Court') in Spl.C.No.181/2017 for the offences punishable under Sections 302 and 201 read with Section 34 of the IPC and Sections 3 and 27 of the Arms Act and under Sections 15, 16, 17, 18 and 20 of Unlawful Activities (Prevention) Act, 1967 ("**UAP Act**"), whereby the learned Trial Court has rejected the interim bail application filed by the appellant under Section 439(1) of Cr.P.C.

2. Heard the learned counsel Sri.Mohammed Tahir for the appellant and the learned Special Public Prosecutor Sri.P.Prasanna Kumar, appearing for the respondent.

3. The brief facts of the case are that based on the complaint lodged by one Jayaram alleging murder of one Rudresh R., the Commercial Street Police Station registered a case on 16.10.2016 in Crime No.124/2016. After registration of crime, the appellant was arrested and after investigation, the

police filed a chargesheet for the aforementioned offences by arraying the appellant as accused No.1. The matter is now pending before the Court of Session in Spl.C.C.No.181/2017 registered for the aforesaid offences.

4. The appellant has been in judicial custody since 9 years and 6 months and has approached the Trial Court seeking interim bail for a period of 3 days i.e., 8th May to 10th May 2026, under Section 439(1) of Cr.P.C, to participate and arrange the 40th day prayer of departed soul of his sister who passed away on 30.03.2026. The said application came to be dismissed vide impugned order. Hence, he is before this Court in this appeal seeking to set aside the impugned order and consequently, grant an interim bail as aforesaid.

5. Learned counsel for the appellant contended that though the appellant is in judicial custody since 9 years 6 months, the Trial Court has failed to appreciate the humanitarian ground raised for grant of interim bail that too to attend the 40th day ceremony of his deceased sister as the said event is a very significant and important event in which all the family members will assemble and pray for the departed soul.

It is further contended that though the statutory bar under Section 43D (5) of the UAP Act, although stringent, does not exclude the exercise of judicial discretion in cases of extreme hardship or urgent humanitarian ground. It is also contended that the appellant is ready to abide by any stringent conditions to be imposed in the event of his bail being granted. As such, he prays for allowing of the appeal by setting aside the impugned order and for granting of interim bail.

6. *Per contra*, learned Special Public Prosecutor has supported the impugned order passed by the Trial Court and prays to dismissal of the appeal.

7. We have given our anxious consideration to the submissions made by the learned counsel for the respective parties, so also the impugned order and documents available on record.

8. As could be gathered from records, the sister of the appellant has passed away on 30.03.2026. As such, the appellant has filed an application before the Trial Court seeking to attend 10th to 13th day prayer ceremony of his deceased

sister. Upon consideration of the same, the Trial Court vide order dated 16.04.2026 permitted the appellant to attend the ceremony of his deceased sister on 19.04.2026. However, immediately, thereafter, the appellant has filed the present application seeking interim bail for a period of three days to attend the 40th day ceremony of his deceased sister i.e., "*Chehlam*" event. The Trial Court while considering the said application has observed that since the present application does not indicate any cogent reason as to why a similar prayer has to be entertained once again and since there is high flight risk if the interim bail is granted to the appellant and that there is every possibility that the appellant would delay and frustrate the proceedings, the present application for interim bail cannot be granted. Paragraph 12 of the impugned order reads as follows:

> 12. It is pertinent to note that the xerox copy of the ration card clearly indicate that there are other male members in the family of accused No.1. There are no materials or documents on record to show that the 40th day prayer event of his only deceased sister, Smt Shaheda Yasmeen scheduled to be held from 08.05.2026 to 10.05.2026. Since other male members are there in the family of accused No.1, they can

perform the last rituals of his deceased sister. The xerox copy of the medical certificate of cause of death produced by the learned counsel for accused No.1 shows that Smt. Shaheda Yasmeen died on 30.03.2026. Accused No.1 has contended that he has emotional attachment to his said sister. The prosecution has opposed granting three days of interim bail, arguing that the present application does not indicate any cogent reason as to why a similar prayer has to be entertained again and there is a high flight risk and this Court vide an order dated 16.04.2026, permitted accused No.1 to attend Ziyarath ceremony of his deceased sister on 19.04.2026. The xerox copy of the ration card clearly indicate that the other male members are there in the family of accused No.1 to arrange and perform Chelam, 40th day prayer for departed soul. In the opinion of the Court, there is a merit in the contention raised by the prosecution that the trial of the case being at the fag end stage and the offences alleged against accused No.1 being serious in nature, accused No.1 is not entitled for interim bail.

9. Since the appellant has filed the present application to attend 40th day prayer ceremony of his deceased sister, that too, immediately after his earlier application being considered and granted by the Trial Court vide order dated 16.04.2026 to attend 10th to 13th day prayer ceremony, the present

application has rightly been rejected by the Trial Court as there was no cogent reason assigned by the appellant as to why the similar application has to be entertained once again and as the trial of the case being at the fag end and that the offences alleged against the appellant being serious in nature. In that view of the matter, in our considered view, the Trial Court vide impugned order has rightly rejected the application of the appellant for interim bail, which does not call for any interference at the hands of this Court. Accordingly, the appeal lacks merit and the same is ***dismissed***.

SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE

SD/-
(RAJESH RAI K)
JUDGE

PKS
List No.: 1 Sl No.: 16