



**IN THE COURT OF II ADDL. DISTRICT AND SESSIONS  
JUDGE, BIDAR, SITTING AT BASAVAKALAYAN.**

**PRESENT**

**YASHAWANT R TAWARE**

**B.Sc., LL.B., (Spl)**

**II Addl. District & Sessions Judge, Basavakalyan  
Sitting at Basavakalyan**

**Dated 08<sup>th</sup> day of July 2026**

**Crl. Misc.No.5157/2026**

**PETITIONER:**

1. Md. Sanaullah S/o Md. Inayataullah,  
Aged about 33 years, R/at Ranjol,  
Tq. Zahirabad, Dist. Sangareddy,  
Telangana State.

***(By Sri. Narayan Ganesh Adv.)***

**-Vs-**

**RESPONDENTS:**

1. State of Karnataka,  
through Chitguppa Police,  
Tq. Humnabad, Dist. Bidar.

2. Bhimarao S/o Kanu Chinna Rathod,  
R/at Govind Thanda, Tq. Chitguppa,  
Dist. Bidar.

***(By Public Prosecutor)***

**BAIL ORDER**

This petition is filed under section 482 of BNSS, 2023  
seeking anticipatory bail in Chitguppa P.S Cr.No.51/2026



registered against the petitioner alleging the commission of offences punishable under section 352, 351(2) of BNS, 2023 and under section 3(1) (s), 3(2) (va) of SC/ST (POA) Act, 1989.

**2. The factual matrix of prosecution case in brief are that,**

One Bhimrao S/o Kanu Chinna Rathod R/o Govinda Thanda, Tq. Chitguppa is the complainant in the present case. As per the averments of the said complaint, the marriage of complainant's daughter by name Bharathibai was solemnised with one Balram S/o Toluram Rathod of Vittu Nayak Thanda at about two years back. In wedlock, the said Smt. Bharathibai begot a son by name Virat. The complainant's son in law viz., Balaram has converted to Muslim Religion long back before his marriage. After marriage, he and his parents were forcing Smt. Bharatibai and her son Virat to convert to Muslim Religion. As a result of this, the said Smt. Bharatibai left her matrimonial home and she is staying along with her son at her maidens house in Govind Thanda since seven months.

The facts being stood thus, on 09-05-2026, the complainant's son-in-law and his parents along with the petitioner herein came to Govind Thanda to bring back Smt. Bharatibai to her matrimonial home. In the course of conciliation talks in the presence of elderly persons of Govind Thanda by name Nandu



Kumar Chinna Rathod, Omnath Karbari and certain others, the petitioner herein has abused the complainant in filthy language taking the name of his caste uttering as " ಏ ರಂಡಕ ಬೇಟಾ ತೇರಿ ಬೇಟಿಕೋ ಹಮಾರಾ ಸಮೀರ್ (ಭಲರಾಮ್) ಕೆ ಸಾತ್ ಭೇಜದೋ ಸಹಿ ನಹಿತೋ ತುಮ್ ಲಮಾಣಿ ಭೋಸಡೀ ವಾಲೋಕೋ ಹಮಾರಿ ಲೋಗೋಕೋ ಭುಲಾಕೆ ದೇಕತೇ ತುಮಾರೆಕೋ". It was 04.00 p.m, at that time. Hence, this complaint.

3. On the basis of this above complaint, the SHO of Chitguppa P.S has registered a case under their P.S Crime No. 51/2026 against this petitioner for the offences punishable under Section 352, 351(2) of BNS, 2023 and under section 3(1) (s), 3(2) (va) of SC/ST (POA) Act, 1989. As the name of this petitioner is referred to in the complaint, he is apprehending his arrest in the present case by Chitguppa Police. The investigation is still under progress. Under these circumstances, the petitioner has filed this petition seeking his release on anticipatory bail pending investigation.

4. In response to the service of the notice, the victim/complainant has appeared and submitted that, the learned Special Public Prosecutor can defend this petition on his behalf also. His such submission is taken on record. The learned Spl Public Prosecutor representing the State has filed the Statement of Objections opposing for the grant of anticipatory bail inter alia contending that, the investigation is



still under progress and at this stage, if this petitioner is released on anticipatory bail, there is likelihood of his fleeing away from the course of justice and the said petitioner may tamper with the prosecution witnesses or cause threat or undue influence and that there are prima-facie materials available on record to believe that the said petitioner has committed the offences alleged against him. It is also contended that, as per the section 18-A of SC/ST (POA) Act, 1989 there is a bar to entertain a petition for anticipatory bail and as such this petition is not maintainable. On these and certain other grounds, it is prayed to reject the bail petition.

5. Now, the points that arise for my consideration are as under:

- (i) Whether the petitioner is entitled to be released on anticipatory bail?
- (ii) To what order?

6. Heard both sides.

7. My finding to the above points are as under:

Point No.(i): ***In the affirmative.***

Point No.(ii) : As per the final order passed below for the following;



### REASONS

#### 8. POINT NO.(i):

I have given my anxious thoughts to the points urged by both the learned counsel during the course of advancing their arguments. I have also carefully perused the materials produced on record. It is to note that, the provisions of Section 18-A of the SC/ST (POA) Act, 1989 creates a bar for invoking Section 439 of the Code of Criminal Procedure 1973 ( now section 482 of BNSS, 2023 ). However, the Hon'ble Apex Court in the case of **Vilas Pandurang Pawar and another vs. State of Maharashtra and others** reported in **(2012) 8 Supreme Court Cases 795** has held that 'A duty is cast on the court to verify the averments in the complaint and to find out whether an offence u/s 3(1) of the SC/ST(POA) Act has been prima-facie made out. In other words, If there is a specific averment in the complaint, namely, insult or intimidation with intent to humiliate by calling with caste name, the accused persons are not entitled to anticipatory bail.

9. Thus, the position of law is well settled that, although there is a bar under Section 18-A of the Act to entertain anticipatory bail petition, but, it is the duty of the Court to verify the allegations made in the complaint with a view to find out whether the facts emerging there-from even if taken



at their face value disclose the existence of the ingredients constituting the alleged offence. If the allegations in the complaint even if they are taken at their face value are accepted in their entirety constitute the offence alleged, the anticipatory bail petition is not maintainable.

10. Bearing in mind this position of law, now let us examine the averments of the complaint filed in this case. The averments of the complaint in the present case disclose that, on 09.05.2026 at around 04.00 p.m, when conciliation talks were going on in the presence of elderly persons of Lamani community by name Nandakumar Chinna Rathod, Omnath Karbari and certain others in the house of the complainant at Govind Thanda to bring back the complainant's daughter to her matrimonial home to lead her marital life with her husband by name Balram, this petitioner abruptly abused the complainant in filthy language taking the name of his caste and criminally intimidated him uttering as " ಏ ರಂಡಕ ಬೇಟಾ ತೇರಿ ಬೇಟಿಕೋ ಹಮಾರಾ ಸಮೀರ್ (ಭಲರಾಮ್) ಕೆ ಸಾತ್ ಭೇಜದೋ ಸಹಿ ನಹಿತೋ ತುಮ್ ಲಮಾಣಿ ಭೋಸಡಿ ವಾಲೋಕೋ ಹಮಾರಿ ಲೋಗೋಕೋ ಭುಲಾಕೆ ದೇಕತೇ ತುಮಾರೆಕೋ".

11. It is to note that, the offence under section 3(1) (s) of SC/ST (POA) Act, 1989 is attracted when any non member of SC or ST abuses any member of SC or ST by caste name in any place within public view. The averments of the complaint indicate that there



was conciliation talks held in the house of the complainant in the presence of elderly persons of Lamani community by name Nandakumar Chinna Rathod, Omnath Karbari and certain others. They were all belonging to Lamani community. The averments of the complaint is totally silent as to the presence of any non member of SC or ST in the said conciliation talks held in the house of complainant. The law is well settled that if a non member of SC/ST abuses any member of SC or ST in the presence of persons belong to SC or ST community, the offence under section 3(1) (s) is not attracted. Therefore, the averments of the complaint do not indicate that, this petitioner has abused the complainant by caste name at any place within public view. This is one point. The second point is that, this alleged incident has taken place on 09.05.2026 at around 04.00 p.m,. The complaint is lodged on 10.05.2026 at around 09.15 p.m,. Thus, there is delay of more then 24 hours caused in lodging the complaint from the time of alleged incident. The learned counsel for the petitioner has relied upon a decision rendered in the case of **Jayaram vs. State of Karnataka** reported in **2016 Cr. R. 325 (Kant.)**. In that case, there was delay in lodging the complaint and the said unexplained delay has been taken as prima-facie case to doubt the averments of the complaint. Hence, the averments of the complaint, prima facie does not make out the ingredients of offence under section 3(1) (s) of the SC/ST (POA) Act, 1989. If so, then section 18-A of the said Act will have no application to the



facts of the present case. So far as offence under section 3(2) (va) is concerned, the said section attracts only when it is proved by holding trial that the offences alleged under IPC (BNS 2023) is committed against SC/ST person. This petitioner is having no any criminal antecedents. He is ready to abide by any conditions that may be imposed by this court. If so, the apprehensions raised by the learned Special Public Prosecutor in his statement of objections can be sufficiently met out by imposing stringent conditions. With these observations, I am of the considered opinion that, this petitioner can be admitted to the anticipatory bail pending investigation. Accordingly, the point No.(i) framed herein above is answered ***in the Affirmative*** in favour of the petitioner.

**12. POINT NO.(ii):**

In view of my finding given on point No.(i) and for the reason discussed herein above paragraphs, I proceed to pass the following:

**ORDER**

The petition filed under section 482 of BNSS, 2023 is hereby allowed.

It is hereby ordered that, in the event



of arrest of this petitioner in relation to Chitguppa PS Crime No.51/2026, he shall be released on anticipatory bail on his execution of personal bond in a sum of Rs.1,00,000/- along with one surety for like sum under the following:

**CONDITIONS;**

1. The petitioner shall mark his attendance once in week at Chitguppa P.S, between the period 10.00 am and 5.00 p.m until the final report is filed or for a period of 60 days which ever is earlier.
2. The petitioner shall cooperate with the I.O, during and until conclusion of the investigation.
3. The petitioner shall not tamper with the prosecution witnesses or cause threat, coercion and undue influence on the witnesses who are acquainted with the commission of crimes.



4. The petitioner shall not indulge in similar criminal activities in future.

5. The petitioner shall attend the trial regularly without fail.

[Dictated to the Stenographer, typed and computerized by him, corrected by me and then pronounced in the open court, on this 08<sup>th</sup> day of July 2026].

**(YASHAWANT R TAWARE)**  
II Addl. Dist. & Sessions Judge,  
sitting at Basavakalyan.

VI\*