

**IN THE COURT OF II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, AT BALLARI.**

PRESENT: GUDI VASUDEV RADHAKANT,
B.Com., LL.M.,

**III ADDL. DISTRICT & SESSIONS JUDGE BALLARI AND
I/c. II ADDL. DISTRICT & SESSIONS JUDGE BALLARI**

DATED THIS THE 10th DAY OF JULY, 2026

CRL.MISC.No. 684/2026

**Petitioners/
Accused-1 to
12:**

1. Kalla Obayya @ K.Obayya S/o. Bhimayya, aged about 66 years,
2. Member Thippayya @ Thippayya, S/o. Pachal Obayya, aged about 68 years,
3. Manjunatha @ Manjunatha K.R., S/o. Kilari Rangappa, aged about 33 years,
4. Bheemakka @ Kilari Bheemakka W/o. K.Rangappa, aged about 72 years,
5. Kilari Rangappa W/o. K.Obayya, aged about 74 years,
6. Hanumajji @ B.Hanumakka W/o. Marappa, aged about 32 years,
7. Maresha @ Mareppa S/o. Palaiah, aged about 43 years,
8. Smt. Gangamma W/o. Thippaiah, aged about 60 years,
9. Chairmen Obayya @ E.Obayya S/o. Dodda Obayya, aged about 65 years,

10. Obalesha S/o. Sanna Mareppa, aged about 45 years,

11. Smt.Boramma @ Renuka W/o. Kotresh, aged about 40 years,

12. Kotresha S/o. Rangappa, aged about 46 years,

--- All are residents of C.Lakkalahalli Village, Sovenahalli Post, Sandur Taluk, Ballari District.

(By Sri. B.Veeresh, Advocate)

//Vs.//

Respondent: The State by Sub-Inspector of Police, Choranur Police Station, Sandur Circle, Ballari.

(By Learned Public Prosecutor)

ORDERS

This petition is filed by petitioners/accused No.1 to 12 U/Sec.482 of Bharatiya Nagarika Suraksha Sanhita, 2023 seeking anticipatory bail in the event of their arrest in Crime No.60/2026 registered by Choranur Police Station, Sandur Circle for the offences punishable U/Sec.74, 115(2), 118(1), 189(2), 191(2), 191(3), 329(3), 352 R/w Section 190 of Bharathiya Nyaya Sanhitha, 2023.

2. The brief facts of the petition are that on 18.06.2026 at 9.00 a.m. - 10.00 a.m., in the open space of the informant situated at C.Lakkalahalli Village of Sandur Taluk, accused Nos.1 to 12 have formed unlawful assembly, tried to construct the house in the open space of the informant. When the informant questioned the same, accused have picked up quarrel with him, abused his father in filthy language as "*Bolimagane*", kicked him on his chest, assaulted him with bricks on the head of father of the informant, Eshwarappa, Suma and Gowramma and voluntarily caused hurt. Accused have also dragged the saree of sister and wife of brother of the informant, used force and assault so as to outrage their modesty and gave life threats. By these acts, accused have committed the alleged offences.

3. Accused No.1 to 12 have filed the present petition on grounds that the petitioners are innocents, peace loving citizens and they have not committed any offence as alleged by the informant. Informant has conveniently narrated the false facts, which is a result of concoction and introduction of afterthought version. They have been falsely implicated in the case. Though the alleged offences are non-bailable, not punishable with death or imprisonment for life. They are ready to abide by any conditions may be imposed by the Court. They will not tamper with the witnesses of Prosecution and also will not abscond

from the Court. Hence, prayed to grant anticipatory bail in the interest of justice.

4. Learned Public Prosecutor has filed objections along with I.O. Report interalia denying the entire contents of the petition. It is contended that there are no bonafide grounds to grant anticipating bail. Accused-1 to 12 have assaulted the first informant and his family members, caused hurt to them, outraged the modesty of sister and wife of brother of the informant and thereby committed the heinous offences. Still investigation is under progress. If accused-1 to 12 are released on anticipatory bail, they may pose threat to the prosecution witnesses, commit similar offences and may not co-operate for investigation. Therefore, prayed to reject the petition.

5. Heard the arguments of learned counsel for the petitioners/accused-1 to 12 and learned Public Prosecutor for the State.

6. The Points that arise for my consideration are :

1. Whether the petitioners/accused-1 to 12 are entitled for anticipatory bail?

2. What order ?

7. My answer to the above points are ;

Point No.1 : In the Affirmative

Point No.2 : As per final for the following:

REASONS

8. **POINT NO.1:-** At the outset, it is necessary to cull out the principles governing the grant of anticipatory bail. While considering an application for grant of anticipatory bail in a suitable case, the court must consider the settled factors, which emerge from the precedents of higher echelons of judiciary. These factors can be summarized as follows:-

- 1) The nature of alleged offence, the nature of accusation and the severity of the punishment in the case of conviction.
- 2) Whether there exists a reasonable apprehension of the accused tampering with the witnesses or being a threat to the complainant or the witnesses.
- 3) Possibility of securing the presence of accused at the trial or likelihood of the accused fleeing from the justice.
- 4) Antecedents of circumstances, which are peculiar to the accused.
- 5) Whether prima-facie the ingredients of the offences can be made out on the basis of allegations as they stand in the FIR or Charge Sheet and the

significant interest of the public or the State and other similar considerations.

9. Constitution Bench of Hon'ble Supreme Court of India in a decision reported in **(2020) 5 SCC 1 (Sushila Aggarwal and others versus State (NCT of Delhi)** and others) has further laid down guidelines to be followed by the courts while granting anticipatory bail to accused. Those guidelines are culled out herebelow:-

78. Having regard to the above discussion, it is clarified that the court should keep the following points as guiding principles, in dealing with applications under Section 438, Cr. PC:

(a) As held in *Sibbia*, when a person apprehends arrest and approaches a court for anticipatory bail, his apprehension (of arrest), has to be based on concrete facts (and not vague or general allegations) relatable a specific offence or particular of offences. Applications for anticipatory bail should contain clear and essential facts relating to the offence, and why the applicant reasonably apprehends his or her arrest, as well as his version of the facts. These are important for the court which considering the application, to extent and reasonableness of the threat or apprehension, its gravity or seriousness and the appropriateness of any condition that may have to be imposed. It is not a necessary condition that an application should be moved only after an FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest.

(b) The court, before which an application under Section 438, is filed, depending on the seriousness of the threat (of arrest) as a measure of caution, may issue notice to the public prosecutor and obtain facts, even while granting limited interim anticipatory bail.

(c) Section 438 Cr. PC does not compel or oblige courts to impose conditions limiting relief in terms of time, or upon filing of FIR, or recording of statement of any witness, by the police, during investigation or inquiry, etc. While weighing and considering an application (for grant of anticipatory bail) the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc. The courts would be justified – and ought to impose conditions spelt out in Section 437 (3), Cr.PC [by virtue of Section 438 (2)]. The necessity to impose other restrictive conditions, would have to be weighed on a case by case basis, and depending upon the materials produced by the state or the investigating agency. Such special or other restrictive conditions may be imposed if the case or cases warrant, but should not be imposed in a routine manner, in all cases. Likewise, conditions which limit the grant of anticipatory bail may be granted, if they are required in the facts of any case or cases; however, such limiting conditions may not be invariably imposed.

(d) Courts ought to be generally guided by the considerations such nature and gravity of the

offences, the role attributed to the applicant, and the facts of the case, while assessing whether to grant anticipatory bail, or refusing it. Whether to grant or not is a matter of discretion; equally whether, and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.

(e) Anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial. Also orders of anticipatory bail should not be “blanket” in the sense that it should not enable the accused to commit further offences and claim relief. It should be confined to the offence or incident, for which apprehension of arrest is sought, in relation to a specific incident. It cannot operate in respect of a future incident that involves commission of an offence.

(f) Orders of anticipatory bail do not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the person who seeks and is granted pre-arrest bail.

(g) The observations in Sibbia regarding “limited custody” or “deemed custody” to facilitate the requirements of the investigative authority, would be sufficient for the purpose of fulfilling the provisions of [Section 27](#), in the event of recovery of an article, or discovery of a fact, which is relatable to a statement made during such event (i.e. deemed custody). In such event, there is no question (or necessity) of asking the accused to

separately surrender and seek regular bail. [Sibbia](#) (supra) had observed that “if and when the occasion arises, it may be possible for the prosecution to claim the benefit of [Section 27](#) of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by a person released on bail by invoking the principle stated by this Court in [State of U.P. v Deoman Upadhyaya](#).”

(h) It is open to the police or the investigating agency to move the court concerned, which granted anticipatory bail, in the first instance, for a direction under Section 439 (2) to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc. The court – in this context is the court which grants anticipatory bail, in the first instance, according to prevailing authorities.

(i) The correctness of an order granting bail, can be considered by the appellate or superior court at the behest of the state or investigating agency, and set aside on the ground that the court granting it did not consider material facts or crucial circumstances. (See Prakash Kadam & Etc. [Etc vs Ramprasad Vishwanath Gupta & Anr](#)⁵²; [Jai Prakash Singh](#) (supra) State through C.B.I. vs. Amarmani Tripathi⁵³). This does not amount to “cancellation” in terms of Section 439 (2), Cr. PC.

(j) The judgment in Mhetre (and other similar decisions) restrictive conditions cannot be imposed

at all, at the time of granting anticipatory bail are hereby overruled. Likewise, the decision in Salauddin and subsequent decisions (including K.L. Verma, Nirmal Jeet Kaur) which state that such restrictive conditions, or terms limiting the grant of anticipatory bail, to a period of time are hereby overruled.

79. In conclusion, it would be useful to remind oneself that the rights which the citizens cherish deeply, are fundamental- it is not the restrictions that are fundamental. Joseph Story, the great jurist and US Supreme Court judge, remarked that "personal security and private property rest entirely upon the wisdom, the stability, and the integrity of the courts of justice."

10. Keeping these principles in mind, let me proceed to decide the present petition.

11. Now turning to the factual scenario of the present case as can be discernible from the records of the case, Ballari Rural Police have registered the case against accused-1 to 12 for the offences punishable U/Sec.74, 115(2), 118(1), 189(2), 191(2), 191(3), 329(3), 352 R/w Section 190 of Bharathiya Nyaya Sanhitha, 2023. It is the accusation made by the prosecution that accused-1 to 12 in prosecution of their common object, have picked up quarrel with the informant and his family members, abused them in filthy language, assaulted them and

caused hurt, outraged the modesty of women folk, gave life threat and thereby committed the alleged offences.

12. The alleged offences are not punishable with death or imprisonment for life and they are triable by the court of Magistrate. Records reveal that the injury is not on the vital part of the body of the informant. Even though offence under Section 74 of Bharathiya Nyaya Sanhitha, 2023 is serious in nature, however it is important to consider that the alleged offence was committed on 18.06.2026 and the information was lodged on 19.06.2026. There is delay in lodging the FIR. This aspect, at this stage militates against the prosecution. Moreover, the averments of the First Information Statement reveal that there was another dispute between the parties. Advocate for petitioners has produced copy of FIR in Crime No.58/2026 of Choranur Police Station, Sandur Circle, which shows that there is case and counter case between the parties. Apprehensions of the prosecution can be meted out by imposing reasonable conditions.

13. As per the decision of Sushila Agarwal (referred supra), mere grant of anticipatory bail does not prevent the investigating agency to proceed with the investigation and to interrogate the accused if necessary. The anticipatory bail order will not come in the way of the investigating agency to proceed

with the investigation as per law. Even otherwise investigation can be proceeded without detaining the accused in custody.

14. In the present petition, accused-1 to 12 have undertaken that they will not tamper with the prosecution witnesses. Considering all these aspects and totality of the circumstances, I am of the opinion that accused-1 to 12 are entitled for anticipatory bail subject to reasonable conditions, as keeping them in custody amounts to pre-trial conviction. Hence, I answer the Point No.1 in the Affirmative.

15. **Point No.2 :-** In the result, I proceed to pass the following :

ORDER

The petition filed on behalf of petitioners/accused-1 to 12 U/Sec.482 of Bharatiya Nagarika Suraksha Sanhita, 2023 is hereby allowed.

Petitioners/accused-1 to 12 in the event of their arrest in Crime No.60/2026 registered by Choranur Police Station, Sandur Circle for the offences punishable U/Sec. 74, 115(2), 118(1), 189(2), 191(2), 191(3), 329(3), 352 R/w Section 190 of Bharathiya Nyaya Sanhitha, 2023

shall be released on anticipatory bail on execution of personal bond for Rs.1,00,000/- each along with one surety for like-sum subject to following conditions:

1. Petitioners/accused-1 to 12 shall mark their attendance before the concerned Police Station on every Thursday once in fortnight **between 10.00 a.m and 05.00 p.m,** till expiry of 90 days or till filing of the final report, whichever is earlier.
2. They shall appear before the Investigating Officer for the purpose of investigation/interrogation as and when called for the purpose of investigation.
3. They shall not involve in any criminal activities.
4. They shall not directly or indirectly make any inducement, threat or promise to any witnesses acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the court or to any Police Officer.

5. They shall not obstruct or hamper the Police investigation and not to play mischief with the evidence collected or yet to be collected by the Police.

6. They shall regularly remain present during the trial and co-operate with the court to complete the trial for the above said offences.

7. They shall not leave India without prior permission of Trial/Committal Court.

If breach of any of the above conditions is committed, the prosecution is at liberty to seek for cancellation of anticipatory bail.

(Dictated to Stenographer directly on computer, typed by her, corrected and then pronounced by me in the open Court on this **10th day of July 2026**).

(GUDI VASUDEV RADHAKANT)
I/c. II ADDL. DISTRICT & SESSIONS JUDGE,
BALLARI.