

KABI010027422026



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

**PRESENT: GUDI VASUDEV RADHAKANT,
B.Com., LL.M.,
I/c. II.ADDL. DISTRICT & SESSIONS JUDGE
BALLARI.**

DATED THIS THE 15th DAY OF JULY 2026

CRL.MISC.No.697/2026

**Petitioner/
Accused :**

P.Ibrahim Sab S/o Late.Chandavali, Aged: 36
years, Agriculturist, R/o Honnahalli Village,
Kampli Taluk, Ballari District.

(By Sri.R.N.Chitragar. Advocate)

//Vs.//

Respondent:

1. The State by Station House Officer of Ballari
Women Police Station, Ballari City, Sub Division
Circle, Ballari.

2. The State by Station House Officer of
Kuduthini Police Station, Kuduthini, Ballari
District.

(By Learned Public Prosecutor)

ORDERS

This petition is filed by petitioner U/Sec.482 of Bharatiya
Nagarika Suraksha Sanhita, 2023 seeking anticipatory bail in **Crime
No.86/2026 of Kuduthini Police Station (Crime.No.10/2026
of Woman Police Station)** for the offences punishable
U/Sec.498-A, 323 and 504 of IPC.

2. The brief facts of the petition are that on 26.05.2026, the information was lodged by the informant Smt.Mumtaz W/o Imbrahim Sab, with Police which is to the effect that, she got married to accused on 06.07.2017. Her marriage was performed by her parents by incurring huge expenditure and by giving 6 tolas of gold and household utensils to accused. After marriage, informant had joined the matrimonial company of accused. They led happy married life for some time. Out of their wedlock, two children were born. Accused being husband has started to harass her under the guise of not knowing any work. He has not provided maintenance to her and her children. When the informant was pregnant for the second child, she had been to her parental house. After birth of second child accused never came to take her. Accused used to pick up quarrel with her by holding her hair, abused her in filthy language as 'Mindri Sule', subjected her to physical and mental cruelty, did not provide maintenance despite order in Crl.Misc.No.271/2024 by Family Court, Ballari. These factors constrained her to file first information statement against the accused.

3. Accused has filed the present petition on grounds that he is innocent, peace loving citizen and he has 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. He has been falsely implicated in the case. Though the alleged offences are non-bailable, not punishable with death or exclusively imprisonment for life. He is ready to abide by

any conditions that may be imposed by the Court. He will not tamper with the witnesses of Prosecution and also will not abscond from the Court. Hence, prayed to grant 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 the bail. Accused has assaulted the first informant, caused hurt to her, subjected her to mental and physical cruelty and thereby committed the heinous offences. Still investigation is under progress. If accused is released on bail, he 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 petitioner/accused and learned Public Prosecutor for the State.

6. The Points that arise for consideration are :

1. Whether the petitioner/accused is 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) relating to a specific offence or particular 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, Kuduthini Police have registered the case against accused for the offences punishable **U/Sec.498-A, 323 and 504 of IPC**. It is the accusation made by the prosecution that accused has picked up quarrel with the informant, abused her in filthy language, assaulted her, subjected her to mental and physical cruelty, voluntarily caused hurt to her and thereby committed the alleged offences.

12. The alleged offences even though are non-bailable in nature, but not punishable with death or imprisonment for life. Nevertheless the said offences are triable by the Court of Magistrate. Records reveal that the injury is not on the vital part of the body of the informant. I.O. has not furnished medical records of the informant.

13. Therefore, conversion of the said offence into capital offence is ruled out at this juncture. As per the decision of Hon'ble High Court of Karnataka reported in **2017(1) AKR 244 (Laxman Adappa @ Durgappa Tappaladoddi and others v/s. State of Karnataka)** wherein it is held that if the injured has been discharged, anticipatory bail can be granted in respect of offence punishable under Section 307 of Indian Penal Code. Same analogy applies here.

14. In addition to this it is also clearly well settled legal principle that, granting of bail is a rule and rejection is an exception, considering the involvement of personal liberty of accused.

15. Even by judging the factual matrix of the present case in the light of principles emerging from the several decisions of Hon'ble Supreme Court of India and Hon'ble High Court of Karnataka, having regard to the fact that the informant had not sustained grievous injuries to the any of the vital parts of her body, call for granting anticipatory bail to accused. Apprehensions of the prosecution can be meted out by imposing reasonable conditions.

16. As per the decision of Hon'ble Supreme Court of India in catena of decisions, mere grant of bail does not prevent the investigating agency to proceed with the investigation and to interrogate the accused if necessary. The 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.

17. In the present petition, accused 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 is entitled for bail subject to reasonable conditions, as keeping him in custody amounts to pre-trial conviction. Hence, I answer the Point No.1 in the Affirmative.

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

ORDER

Petition filed on behalf of petitioner/accused
**U/Sec.482 of Bharatiya Nagarika Suraksha
Sanhita, 2023 is hereby allowed.**

Petitioner/accused in the event of his arrest in Crime No.86/2026 of Kuduthini Police Station (Crime.No.10/2026 of Woman Police Station) for the offences punishable **U/Sec.498-A, 323 and 504 of IPC**, shall be released on anticipatory bail on execution of personal bond for Rs.1,00,000/- along with one surety for like-sum subject to following conditions:

1. Petitioner shall mark his 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. He shall appear before the Investigating Officer for the purpose of investigation/interrogation as and when called for the purpose of investigation.

3. He shall not involve in any criminal activities.

4. He shall not directly or indirectly make any inducement, thereat 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. He 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. He shall regularly remain present during the trial and co-operate with the court to

complete the trial for the above said offences.

7. He shall not leave India without prior permission of the trial Court/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 **15th day of July 2026**).

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