



**IN THE COURT OF I ADDITIONAL SESSIONS &
SPECIAL JUDGE AT CHIKKAMAGALURU**

Dated this the 10th day of March, 2026

:PRESENT:

**Smt. Bhanumathi B.C., B.A.L., LL.B.,
I Addl. Sessions & Special Judge,
Chikkamagaluru**

Crl.Misc.No.129/2026

Petitioner: Mohammed Rahil Pasha,
S/o Mohammed Saleem,
Aged about 27 years,
R/at Santhe Maidana,
A.K.colony,
Chikkamagaluru.

(Represented by Sri.SP, Adv)

-V/s-

Respondents: 1. State by Town police,
Chikkamagaluru.
(Represented by
Special Public Prosecutor,
Chikkamagaluru)

2. Suman J,
Aged about 33 years,

3. Sachin R.,
Aged about 17 years,
Both are residing at
Muniyamma street,
Tamil colony,
Chikkamagaluru.

(R2 and R3 appeared in person)



ORDER

The petitioner, who is arraigned as accused No.1 in Crime No.35/2026 (FIR) on the file of Town police station, Chikkamagaluru has filed this petition under section 482 of Bharatiya Nagarika Suraksha Sanhita 2023 (hereinafter referred as 'BNSS' for the sake of brevity) seeking bail in the event of his arrest in said case registered against him for the offences punishable under sections 191(2), 126(2), 115(2), 329(4), 352, 351(2) r/w section 190 of Bharatiya Nyaya Sanhita (hereinafter referred as 'BNS' for the sake of brevity) and sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (hereinafter referred as "SC and ST (POA) Act" for the sake of brevity).

2. By reproducing and denying the allegations made against him in the complaint, it is stated by the petitioner that he is innocent and not committed the offences alleged against him, but he has been falsely implicated in the crime in question by creating a false story. According to the victims, the alleged incident took place in their house and there is no humiliation caused to them in public place and as such said allegations do not attract the provisions of SC & ST (POA) Act. By registering the case against him, the respondent police are trying to apprehend him and therefore in anticipation of his arrest, he has come up with this petition seeking pre-arrest bail.

3. It is further stated by the petitioner that he is permanently residing at the address shown in the cause title having immovable properties and as such there is no chance of abscondance if he is let on bail.



The petitioner undertakes to abide by the terms and conditions that may be imposed by the court for granting bail to him. Inter-alia on these grounds, the petitioner has sought for allowing the petition.

4. The learned Public Prosecutor has resisted the above petition by filing statement of objections with the report of investigating officer. By reproducing the allegations made in the FIR, it is contended by the prosecution that in the course of investigation, the investigating officer visited the spot, conducted detailed mahazar and recorded the statements of witnesses and the investigation is still in progress. The material placed on record prima-facie establishes the involvement of the petitioner in the crime in question. The petitioner is politically and economically influential and as such at this stage, if he is released on bail, he may intimidate, threaten and influence the prosecution witnesses, flee from investigation and hamper the same and he may also involve himself in the commission of similar offences. Inter-alia, on these grounds, the Public Prosecutor sought for rejecting the petition.

5. The presence of the informant/victim and one more victim, who are arraigned as respondent No.2 and 3 has been secured to hear regarding this petition and they submitted that they have no objection to grant bail to the petitioner.

6. Heard arguments of both side and perused record.

7. The points that arise for the consideration of this court are:

1. Whether petitioner, who is arraigned as



accused No.1 in Crime No.35/2026 on the file of Town police station, Chikkamagaluru has made out any ground to avail anticipatory bail in said case?

2. What order ?

8. The answers to the above points are as under:

Point No.1: In Affirmative

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

REASONS

9. **Point No.1:-** I have carefully perused the entire material placed on record. This court is conscious of the fact that the court cannot and is not supposed to sift the evidence made available on record by the prosecution at the time of deciding bail petition. However, only for the purpose of deciding whether the petitioner is entitled to bail or not, I proceed to discuss the facts alleged by the prosecution and whatever I say while disposing this bail application cannot be construed as an expression of opinion on the merits of the main case.

10. It is seen from the record that on 19.02.2026, the respondent police registered case in Crime No.35/2026 on the basis of the complaint lodged by one Suman J. against the petitioner and others for the offences punishable under sections 191(2), 126(2), 115(2), 329(4), 352, 351(2) r/w section 190 of BNS and sections 3(1)(r), 3(1)(s) and 3(2)(va) of SC and ST (POA) Act, 2015.



11. It is alleged by the informant that on 19.02.2026 at about 12 Noon, one Fathima Shahana, a friend of his brother's son by name Sachin R, aged about 17 years when he was at his house over phone and asked him to drop her to the bus stop by saying that she had some personal problem. Then said Sachin picked her on his motorbike bearing registration No.KA-18/EM-9498 and when they were proceeding near Jyothi circle at market road at about 12.30 p.m, the accused No.1 to 8 and others obstructed them, abused Sachin in filthy language, questioned him as to where he was taking a girl belonging to Muslim community and quarreled with him and due to fear said girl returned to her house. Then the informant, his brother by name Rajesh and relative by name Pallavi went to the spot and at that time, the accused were quarreling with Sachin by insisting him to give phone number of said girl. Then they pacified the quarrel and took Sachin back to their house. Later at about 1 p.m, around 30 persons including accused No.1 to 8 entered their house, assaulted the informant with hands on his person, abused them in filthy language. When aforesaid Pallavi came to their house and questioned the accused by saying that they would give complaint to the police, the accused abused them in filthy language as to why they want a girl of Muslim community and issued threat to their lives. With these allegations, the informant has sought for action against the accused herein and others.

12. As stated above, the respondent police registered case against petitioner for the aforesaid offences and the investigation is still in progress. At this stage, the petitioner has come up with this petition under section 482 of BNSS seeking pre-arrest bail. The offences alleged against the petitioner comprises the



offences punishable under SC & ST (Prevention of Atrocities) Act, 2015. It is relevant to note that Section 18 of said Act provides that nothing in section 438 of the Code of Criminal Procedure, which is replaced by section 482 of BNSS shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under said Act. It is also relevant to note that section 18A has been inserted to said enactment by virtue of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act 2018 with effect from 20.08.2018 and sub-section 2 of section 18A of said Act provides that the provisions of section 438 of the Code of Criminal Procedure, which is now replaced by section 482 of BNSS shall not apply to a case under the said Act notwithstanding any Judgment or Order or direction of any Court.

13. It has been held by Hon'ble Apex Court and our Hon'ble High Court in catena of decisions that the aforesaid provisions contemplated under section 18 and 18A of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 have no application where prima facie case is not made out and in such cases there is no bar to grant anticipatory bail. In the case of **Rahna Jalal Vs. State of Kerala and Another reported in (2021) 1 SCC 733**, the Hon'ble three Judges Bench of Hon'ble Supreme Court has reiterated the aforesaid preposition and held in paragraph No.25 as follows: -

“25. Thus, even in the context of legislation, such as Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, where a bar is interposed by the provisions of Section 18 and sub-section 2 of Section



18A on the application Section 438 of Cr.P.C., this Court has held that the bar will not apply where the complainant does not make out “a prima facie case” for the applicability of the provisions of the Act. A statutory exclusion of the right to access remedies for bail is construed strictly, for a purpose. Excluding access to bail as a remedy, impinges upon human liberty. Hence, the decision in *Chauhan* held that the exclusion will not be attracted where the complaint does not prima facie indicate a case attracting the applicability of the provisions of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989”.

14. Section 18 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 excludes the application of section 438 of Cr.P.C., which is now replaced by section 482 of BNSS in relation to any case involving the arrest of any person on an accusation of having committed an offence under said Act and sub-section 2 of Section 18A of said Act specifically excludes the application of the provisions of section 438 of Cr.P.C., which is now replaced by section 482 of BNSS notwithstanding any Judgment, Order or direction of a Court. However, the Hon’ble Supreme Court has held that the bar created under section 18 and sub-section 2 of section 18A of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 will not be attracted where the complaint does not prima facie indicate a case attracting the applicability of the provisions of said Act.



15. In the case of **Gulam Mustafa Vs. State of Karnataka & Another reported in 2023 LiveLaw (SC) 421**, the Hon'ble Supreme Court while observing that it has been consistent in interfering with in such matters where purely civil disputes, more often than not, relating to land and/or money are given the colour of criminality, only for the purposes of exerting extra judicial pressure on the party concerned is nothing but abuse of the process of the Court, has impressed that the officers who institute FIR based on any complaint are duty bound to be vigilant before invoking any provision of a very stringent statute like the SC/ST Act, which imposes serious penal consequences on the concerned accused and it is also indicated that the officer has to be satisfied that the provisions he seeks to invoke prima facie apply to the case at hand.

16. By keeping these aspects in mind, this court is required to examine whether the averments made in the complaint makes out a prima facie case against the petitioner to invoke the offences punishable under the provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

17. I have perused the entire allegation made in the complaint and other material made available on record. At this stage, no material has been placed on record by the prosecution to show that the informant had in fact suffered any injuries and taken treatment in the said regard in any of the hospitals. Further it is vehemently argued by the learned counsel for the petitioner that in the case on hand, the criminal law was set into motion on the basis of the complaint lodged by the informant in person with the police and if at all he had taken treatment in any of the hospitals



with the history of assault, certainly they would have sent MLC intimation to the jurisdictional police, but in the case on hand, no such intimation was sent and in the absence of any such material, it is difficult to believe the allegations leveled against the accused at this stage.

18. It is alleged in the first information that 30 miscreants including the petitioner herein had obstructed the informant's brother's son when he was taking a girl of Muslim community in his bike to drop her to some place as requested by her and they are alleged to have gone to the house of informant and abused them in filthy language and assaulted the informant with hands. Except some general and omnibus allegations, no specific overt act has been attributed on the part of this petitioner. Moreover while hearing the say of informant and victim regarding this petition, they submitted that they have no objection to grant bail to the petitioner herein. Thus it appears that the dispute between them and the accused has been resolved.

19. In addition to this, as noted above, no material has been placed on record by the prosecution so as to enable this court to assess the nature and gravity of the injuries said to have been inflicted by the accused on the informant as well as the veracity of the allegations leveled against him and infact no material has been placed on record to show that the informant had indeed suffered any injuries and taken treatment at any of the hospitals. In the light of above discussion, this court is of the opinion that whether the allegations leveled against the petitioner herein do attract any of the offences punishable under SC & ST



(Prevention of Atrocities) Amendment Act, 2015 is required to be unearthed in the investigation. Thus the bar created under section 18 and sub-section 2 of 18A of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not applicable to the case on hand in the light of the proposition held by the Hon'ble Supreme Court in the above mentioned case as it is difficult to make out a prima facie against the petitioner from the averments made in the complaint.

20. As the provision of anticipatory bail are based on the discretion of the court, it is the duty of the court to balance the wheel of justice in such a manner that the provisions of law are not misused by any party nor the right of the accused of bail not jail be denied if the balance of probabilities incline in favour of the accused while following the procedure established by law. Further while dealing with an application for grant of anticipatory bail, in addition to the nature and gravity of offence and other aspects, the court is also required to see whether the accusation has been made to insult or humiliate the applicant by having him arrested.

21. As the case has been registered against the petitioner for non-bailable offences, the apprehension of arrest on the part of petitioner appears to be well founded and until the veracity of the allegations is tested, the possibility of the petitioner becoming subject of humiliation if arrested cannot be ruled out.

22. There is nothing on record to show that the petitioner is having criminal antecedents. Besides that though the offences alleged against the petitioner are non-bailable in nature, those are not punishable



with death or imprisonment for life. Further it is not the case of prosecution that the presence of petitioner is required for custodial interrogation. The petitioner is shown to be the resident of the address situated within the jurisdiction of this court and there is nothing on record to show that it is difficult to secure his presence for investigation and trial without arresting and detaining him in custody. Further, there is nothing on record to show that the petitioner herein is placed in such a position that he is able to threaten, intimidate and influence the prosecution witnesses and tamper its evidence.

23. Having regard to these peculiar facts and circumstances of this case, this court is of the opinion that the prosecution has not made out any compelling ground to deny pre-arrest bail to the petitioner. The apprehension on the part of prosecution can be safeguarded by imposing suitable conditions. Hence, this court is of the humble opinion that the petitioner has made out a ground to exercise discretion to grant anticipatory bail to him. Accordingly, I answer Point No.1 in the ***Affirmative***.

24. **Point No.2:** In the light of above discussion, I proceed to pass the following:

ORDER

The petition filed under section 482 of BNSS by the accused No.1 in Crime No.35/2026 on the file of Town police station, Chikkamagaluru is hereby allowed.

The petitioner is ordered to be enlarged on bail in the event of his arrest in the said case registered against him for the offences punishable under sections



191(2), 126(2), 115(2), 329(4), 352, 351(2) r/w section 190 of Bharatiya Nyaya Sanhita and sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 with the following conditions:-

- 1) The petitioner shall appear before investigating officer within twelve days from today and shall execute personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties for the like sum to the satisfaction of investigating officer.
- 2) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade him from disclosing such facts to the court or to any police officer.
- 3) The petitioner shall make himself available for interrogation by the police officer as and when required.
- 4) The petitioner shall not involve himself in any criminal activity.

In case of violation of any of the conditions imposed above, the prosecution is at liberty to seek cancellation of bail.

(Dictated to the Stenographer Grade-III, typed by her, corrected and pronounced by me in the open court on this 10th day of March, 2026).

[Bhanumathi B.C]
I Addl. Sessions & Special Judge
Chikkamagaluru.