



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

Dated this the 11th day of March, 2026

PRESENT

SMT. BHANUMATHI. B.C., B.A.L., LL.B.,
I Addl. Sessions and Special Judge
Chikkamagaluru

Crl.Misc.No.130/2026

Petitioners:

1. Prakash M.S.,
S/o late Sheshappa,
Aged about 65 years,
R/at Sathihalli village,
Gullenpete post,
Chikkamagaluru Taluk.
2. Jayakumar M.V.,
S/o late Venkataramana,
Aged about 60 years,
R/at Sathihalli village,
Gullenpete post,
Chikkamagaluru Taluk.
3. K.Putte Gowda,
S/o Deve Gowda,
Aged about 65 years,
R/at Karemane village,
Gullenpete Post,
Chikkamagaluru Taluk.
4. Kumare Gowda,
S/o late Kenche Gowda,
Aged about 61 years,
R/at Sathihalli village,



Gullenpete Post,
Chikkamagaluru Taluk.

5. Bhujanga Shetty,
S/o late Angarasapalya,
Aged about 67 years,
R/at Padavu Meginmane,
Kulashekar post,
Mangaluru.

(Represented by Sri.HMS, Adv)

-Vs-

Respondents: 1. State by Aldur police

(Represented by Special Public
Prosecutor, Chikkamagaluru)

2. Poornesh,
S/o Kalaiah,
Aged about 38 years,
R/at Ambedkar Nagara,
Sathihalli village,
Gullenpete Post,
Chikkamagaluru Taluk.

(Represented by Sri.HSR, Adv)

ORDER

The petitioners, who are arraigned as accused No.1, 2, 4, 3 and 5 in Crime No.29/2026 on the file of Aldur police station have filed this petition under section 482 of Bharatiya Nagarik Suraksha Sanhita 2023 (hereinafter referred as 'BNSS' for the sake of brevity) seeking bail in the event of their arrest in said case registered for the offences punishable under



sections 329(4), 324(4) and 299 of Bharatiya Nyaya Sanhita 2023 (hereinafter referred as 'BNS' for the sake of brevity) and sections 3(1)(f), 3(1)(g), 3(1)(t) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (hereinafter referred as 'SC & ST (POA) Act' for the sake of brevity).

2. By reproducing and denying the allegations made in the FIR, it is stated by the petitioners that they are innocent of alleged offences, but a false case has been foisted against them. It is stated that there is dispute between the petitioners and respondent No.2 for trivial reasons and in order to trouble them, the respondent No.2 has lodged a false complaint. By registering the case against them, the respondent police are trying to arrest the petitioners and therefore in anticipation of their arrest, they have come up with this petition seeking anticipatory bail.

3. It is further stated by the petitioners that they are permanently residing at the address shown in the cause title having deep roots in the society and as such there is no chance of their abscondance if let on bail. The petitioners are ready to co-operate with the investigation and to abide by the terms and conditions that may be imposed by the court for granting bail to them. Inter-alia on these grounds, the petitioners sought for allowing the petition.

4. The learned Special Public Prosecutor has resisted above petition by filing statement of objections with 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, recorded the statements of witnesses and the investigation is still in progress and the material placed on record prima facie establishes the involvement of petitioners in crime in question. The petitioners are politically and economically influential and if at this stage, they are released on bail, they may intimidate, threaten and influence the prosecution witnesses and they may also flee from investigation and hamper the same and they may also involve themselves in the commission of similar offences. Inter-alia, on these grounds, the Public Prosecutor sought for rejecting the petition.

5. The presence of informant, who is arraigned as respondents No.2 has been secured and he opposed granting bail to the petitioner.

6. Heard both sides and perused record.

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

1) Whether petitioners, who are arraigned as accused No.1, 2, 4, 3 and 5 in Crime No.29/2026 on the file of Aldur police station have made out any ground to avail anticipatory bail in the said case?

2) What order ?

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

Point No.1: In the 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 petitioners are entitled for 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 12.02.2026, the respondent police registered case in Crime No.29/2026 on the basis of complaint reported by one Poornesh, the respondent No.2 herein against the petitioners for the offences punishable under sections 329(4), 324(4) and 299 of BNS and sections 3(1)(f), 3(1)(g), 3(1)(t) and 3(2)(va) of SC and ST (POA) Act.

11. It is alleged by the informant that he belongs to a Scheduled Caste and he is cultivating the land in Sy.No.162 of Sattihalli village for a long time. That earlier he gave a complaint against the petitioners herein to the respondent police for destroying his coffee plants on 25.06.2025. Around one month ago, he had constructed a house in the presence of leaders of Dalit association and planted coffee plants. That on 21.09.2025, when he went out, the petitioners demolished his house, removed its sheets, pillar and tarpal, destroyed the things kept inside the house, 500 planted coffee plants and other 1000 coffee plants which were kept separately and caused loss to the tune of Rupees 01 to 02 lakhs, threw the photo of



Dr.Ambedkar and a mat outside the house and lit fire and as such he had undergone severe mental agony. On 22.09.2025, when he visited the police station, they informed him to lodge complaint with DCRE police station and as such he lodged complaint at DCRE police station. With these allegations, the informant sought for action against the petitioners.

12. As stated above, the respondent police registered case against petitioners for the aforesaid offences and the investigation is still in progress. At this stage, the petitioners have come up with this petition under section 482 of BNSS seeking pre-arrest bail. The offences alleged against the petitioners 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 proposition 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 petitioners 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. As per the allegations made in the complaint, the petitioners are alleged to have destroyed the coffee plants grown in the land bearing Sy.No.162 of Sattihalli village, they are alleged to have demolished the house of the informant constructed in the said land by removing its sheets, pillar and tarpal and they are also alleged to have destroyed the things kept inside the house and caused loss to the tune of Rupees 01 to 02 lakhs. The counsel for petitioners as well as the counsel for informant have submitted copies of pleadings in OS No.342/2025, order sheet and the interim order. A perusal of said documents indicates that said suit is filed by the informant and others against the petitioners herein and others for the relief of permanent injunction with respect to land bearing Sy.No.162 of Sattihalli village to an extent of 10 acres and 24 guntas. The counsel for petitioners also submitted copy of written statement in OS No.400/2025 and plaint in OS No.394/2025 which is filed by petitioner No.1 herein against the informant and others for the relief of permanent injunction with respect to aforesaid land. Counsel for informant also submitted a copy of plaint and order sheet in OS No.341/2025 filed by the informant herein and others against the revenue and forest officers for the relief of permanent injunction with respect to aforesaid land. A perusal of the material made available on record would indicate that there exists civil dispute between



the complainant and accused party with respect to land bearing Sy.No.162 of Sattihalli village and in the said backdrop, the petitioners are alleged to have committed the aforesaid offences. In view of the existence of dispute between the parties with regard to some landed property, the possibility of complainant giving the colour of criminal nature to some civil litigation cannot be ruled out.

18. Further it is not the case of the prosecution that this petitioners are having criminal antecedents and their presence is required in custody for further investigation. Though the offences alleged against the petitioners are non-bailable in nature, the same are not punishable with death or imprisonment for life. Further there is nothing on record to show that it is difficult to secure the presence of the petitioners for the remaining investigation and trial without arresting and detaining them in custody. Having regard to the peculiar facts and circumstances of the case, this court is of the opinion that the veracity of the allegations made against the petitioners herein is required to be tested in the investigation and the trial.

19. As per the allegations made in the first information, the alleged incident took place on 21.09.2025, but it came to be reported to the police only on 12.02.2026. By highlighting the same, it is contended by the learned counsel for the petitioners that there is inordinate delay in reporting the alleged incident to the police and the same is not explained by the informant at this stage and the delay in the said regard clearly establishes that the allegations leveled against the petitioners are the result of afterthought and baseless. Having regard these peculiar facts and circumstances of the case, the possibility of informant



giving the colour of criminal nature to some civil dispute with respect to the alleged site cannot be ruled out and therefore this court is of the humble opinion that the veracity of the allegations leveled against the petitioners is required to be unearthed in the investigation.

20. In the light of above discussion, this court is of the opinion that whether the allegations leveled against the petitioners herein do attract any of the offences punishable under SC & ST (Prevention of Atrocities) Act, 1989 is required to be unearthed in the investigation. As it is difficult to make out a prima facie case against the petitioners herein from the material made available on record at this stage, this court is of the opinion that 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 petitioners from the averments made in the complaint.

21. 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.



22. As the case has been registered against the petitioners for the non-bailable offences, the apprehension of arrest on their part appears to be well founded and until the veracity of the allegations is tested, the possibility of they becoming subject of humiliation if arrested cannot be ruled out. Further, there is nothing on record to show that the petitioners are placed in such a position that they are able to threaten, intimidate or influence the prosecution witnesses and to tamper its evidence. The petitioners are shown to be the residents at the addresses situated within the jurisdiction of the court which is competent to try the alleged offences.

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 petitioners. The apprehension on the part of prosecution can be safeguarded by imposing suitable conditions. Hence, this court is of the humble opinion that this is a fit case to exercise discretion to enlarge the petitioners on anticipatory bail. Accordingly, point No.1 is answered 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 is allowed.

The petitioners are ordered to be enlarged on bail in the event of their arrest in Crime No.29/2026 on the file of Aldur police station



registered for the offences punishable under sections 329(4), 324(4) and 299 of BNS and sections 3(1)(f), 3(1)(g), 3(1)(t) and 3(2)(va) of SC & ST (POA) Act on the following conditions:-

- 1) The petitioners 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) each with two sureties for the like sum to the satisfaction of the investigating officer.
- 2) They 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) They shall make themselves available for interrogation by the police officer as and when required.
- 4) They shall not involve themselves in commission of similar offences.

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 11th day of March, 2026)

Sd/-

(Bhanumathi B.C)

I Addl. Sessions and Special Judge
Chikkamagaluru