



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

**Dated this the 17<sup>th</sup> day of March, 2026**

**:PRESENT:**

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

**Crl.Misc.No.148/2026**

**Petitioner:**

Smt.Tahsin Raahi,  
W/o Rahil Shariff,  
Aged about 28 years,  
R/at Pampa Nagara,  
Chikkamagaluru City.

(Represented by Sri.HMS, Adv)

**-V/s-**

**Respondents:**

1. State by Women police,  
Chikkamagaluru.

(Represented by  
Special Public Prosecutor,  
Chikkamagaluru)

2. Smt.Chethana N.S.,  
W/o Jithendra Rathod,  
Aged about 40 years,

3. Jithendra Rathod,  
Aged about 42 years,  
R2 and R3 are residing at  
Basava Dhanya,  
HIG colony, Housing board,  
Jyothinagara post,  
Chikkamagaluru city.



(R2 and R3 are represented  
by Sri.CTT, Adv)

### **ORDER**

The petitioner, who is arraigned as accused No.2 in Crime No.23/2026 on the file of Women 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 her arrest in said case registered against her and others for the offences punishable under sections sections 109, 329(4), 118(1), 324(2), 351(2), 352 and 74 r/w section 3(5) of Bharatiya Nyaya Sanhita, 2023 (hereinafter referred as BNS for brevity) and sections 3(1)(r) and 3(1)(s) of 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 against her in the complaint, it is stated by the petitioner that she is innocent of the alleged offences, but she has been falsely implicated in the crime in question by creating a false story. That few days back, her husband i.e., accused No.1 had obtained a house belonging to respondent No.2 for rent by paying huge advance amount, but on the instigation of some inimical persons towards the accused, the respondents No.2 and 3 without giving any opportunity and without issuing notice to them, canceled the rent agreement and also refused to return the huge advance amount paid by them and when the accused No.1 asked them to return the amount, the respondents No.2 and 3 had quarreled with him and issued threat to his life and then the respondent No.2 reported the present false complaint



against the accused. By registering the case against her, the respondent police are trying to apprehend her and therefore in anticipation of her arrest, she has come up with this petition seeking pre-arrest bail.

3. It is further stated by the petitioner that she is permanently residing at the address shown in the cause title having immovable properties and as such there is no chance of abscondance if she 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 her. 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 she is released on bail, she may intimidate, threaten and influence the prosecution witnesses, flee from investigation and hamper the same and she may also involve herself 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 her husband, who is also shown as victim and arraigned as respondent No.2 and 3 has been secured to hear regarding this petition and they opposed granting bail



to the petitioner. They have been represented by the counsel and adopted the objections filed by the prosecution by filing memo to that effect.

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.2 in Crime No.23/2026 on the file of Women 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 28.02.2026, the respondent police registered case in Crime No.23/2026 on the basis of complaint lodged by one Chethana N.S against the accused for the offences punishable under sections 109, 329(4), 118(1), 324(2), 351(2), 352 and 74 r/w section 3(5) of BNS and sections 3(1)(r) and 3(1)(s) of SC and ST (POA) Act, 2015.

11. It is alleged by the informant that she had let her house situated behind Nurture school, Sharath layout to the accused No.1, a few days ago, news regarding illegal activities and misbehavior of accused No.1 was published in the media, wherein the photograph of her house was also shown and as such they informed the parents and wife of accused No.1 i.e., this petitioner to vacate the house and with their consent, the rent agreement came to be canceled. That on 28.02.2025 at about 8.25 p.m, the accused No.1 went to their house in a Mahindra SUV 500 car and fluttered a katti towards her and when her husband Jithendra Rathod intervened, the accused No.1 fluttered katti towards him also, however they escaped and went inside the house and closed the door. When they were about to call 112 helpline, the accused No.1 knocked the door to open it, abused them in filthy language by touching their caste, issued threat to their lives, broke the gate lamp and tried to enter the house by breaking the window glasses and when their dog started barking, he escaped in his car. 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. In the case on hand, it is alleged by the informant that she had let her house to the accused No.1, the husband of this petitioner and later when some news regarding illegal activities and misbehavior of accused No.1 was published in media, she decided to terminate the tenancy and accordingly, canceled the same with the consent of parents of the accused No.1 and this petitioner and in the said backdrop, the accused No.1 is alleged to have went near the house of informant on 28.02.2026 at 8.25 p.m and therein he is alleged to have attempted to take the lives of informant and her husband by fluttering a katti towards them, but they were said to have escaped from the blow and this



petitioner is alleged to have made whatsApp call to the informant and issued threat to her life if she dared to report complaint against her husband.

18. On the other hand, it is contended by the learned counsel for the petitioner that the informant intended to evict the accused No.1 and his family members from the house within the agreement period on the premise that some rumour were spread against him in the media and as such she had foisted the present complaint against them by making false allegations. It is also contended by the learned counsel for the petitioner that accused No.1 had obtained a house belonging to respondent No.2 for rent by paying huge advance amount, but at the instigation of some inimical persons towards them, the informant and her husband without giving any opportunity and without issuing notice to them, canceled the rent agreement and also refused to return the huge advance amount paid by them and when the accused No.1 asked them to return the amount, they had quarreled with him and issued threat to his life and then the informant reported the present false complaint against them.

19. It is also contended by the learned counsel for the petitioner that as per the averments made in the complaint, the informant and her husband escaped from the blow inflicted by accused No.1 and went inside their house and when they were about to call 112 helpline, the accused No.1 knocked the door, abused them in filthy language and threatened their lives and if at all said version of informant were to be true, then nothing prevented the informant or her husband from calling 112 helpline that too when they were alone inside the house, but in the absence of any such exercise, it creates doubt on the allegations leveled against the accused.



By considering these aspects, the averments made in the complaint and the fact that neither the informant nor her husband had sustained any injuries in the incident in question, this court is of the opinion that the veracity of the allegations leveled against the accused is yet to be unearthed in the investigation.

20. It is also contended by the learned counsel for the petitioner that the offences punishable under section 3(1)(r) and 3(1)(s) of SC & ST (POA) Act have been invoked against the accused and in order to attract said offences, the alleged abuse, insult or intimidation must have taken place in public view, but in the case on hand, as per the allegations made in the complaint, the alleged abuse and intimidation was not witnessed by any public and as such, there is no material to invoke aforesaid offences against the accused. This court finds some substance in the contention urged in the said regard as there is no averment in the complaint to the effect that the alleged abuse or intimidation was made in public view so as to attract said offences.

21. The learned counsel for petitioner contended that motive is a double edged sword as it can be a cause to commit crime and simultaneously it raises probability of false implication of the accused. In the case on hand, the informant has alleged that the accused No.1 threatened her and attempted to take the lives of her and her husband by fluttering a katti towards them in the backdrop of she insisting the accused No.1 and his family members to vacate the house let out to them by her on the premise that some news were published regarding his illegal activities and misbehaviour and this petitioner is alleged to have issued threat to their lives over a whatsapp call. On the other hand, it is contended by the learned counsel for the petitioner that



the informant and her family members had possessed motive to implicate the accused in the crime in question to get them vacated from their house. Moreover the major allegations are made against the accused No.1 and this petitioner is only alleged to have issued threat to the life of informant and her husband over phone. In the light of above discussion, this court is of the opinion that whether the accused had intended to take the lives of the informant and her husband as alleged in her first information is required to be investigated.

22. Further as per the report submitted by the investigating officer, nothing remains to be seized from the petitioner and it is not the case of prosecution that the presence of this petitioner is required for custodial interrogation. Thus, in the given set of facts and circumstances of the case, this court is of the opinion that whether this petitioner shared common intention with accused No.1 is yet to be unearthed in the investigation having regard to the allegations made in the complaint.

23. 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.



24. 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.

25. 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.

26. 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 she is able to threaten, intimidate or influence the prosecution witnesses and tamper its evidence.



27. 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 her. Accordingly, Point No.1 is answered in the *Affirmative*.

28. **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.2 in Crime No.23/2026 on the file of Women police station, Chikkamagaluru is hereby allowed.

The petitioner is ordered to be enlarged on bail in the event of her arrest in the said case registered for the offences punishable under sections 109, 329(4), 118(1), 324(2), 351(2), 352 and 74 r/w section 3(5) of Bharatiya Nyaya Sanhita, 2023 and sections 3(1)(r) and 3(1)(s) of 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 herself available for interrogation by the police officer as and when required.
- 4) The petitioner shall not involve herself 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 17<sup>th</sup> day of March, 2026).

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