



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

Dated this the 16th day of March, 2026

:PRESENT:

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

Crl.Misc.No.149/2026

- Petitioners** : 1. S.N.Onkara Murthy @
Onkara,
S/o late S.M.Nanjundaiah,
Aged about 40 years,
R/at Sirgapura village,
Malaluru post,
Chikkamagaluru Taluk.
2. Vijayakumar @ Nanjundappa,
S/o late Erappa Shetty,
Aged about 52 years,
R/at Biggadevanahalli village,
Ambale post,
Chikkamagaluru Taluk.

(Represented by Sri.MDP, Adv)

-V/s-

- Respondents:** 1. State by DCRE Police
Chikkamagaluru.

(Represented by Special Public
Prosecutor, Chikkamagaluru)



2. Ganesh K.U.,
S/o late Uddaiah,
Aged about 37 years,
R/at Kambihalli village,
Malalur post,
Chikkamagaluru Taluk.

(Represented by Sri.KBS, Adv)

ORDER

The petitioners, who are arraigned as accused No.1 and 2 in Crime No.1/2026 on the file of DCRE Police, Chikkamagaluru 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 the said case registered against them for the offences punishable under sections 118(1) of Bharatiya Nyaya Sanhita (hereinafter referred as BNS for brevity) r/w section 3(5) of said Sanhita and sections 3(1)(s), 3(2)(va) and 3(1)(za)(C) of SC and ST (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 them, it is stated by the petitioners that they are innocent of the alleged offences, but they have been falsely implicated in this case. By registering the case against them, the respondent police are trying to apprehend them and therefore in anticipation of their arrest, the petitioners 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 abscondance if they are 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. On the other hand, above petition has been resisted by learned Public Prosecutor by filing statement of objections with the report of investigating officer. By reproducing the allegations made in the complaint, it is contended by the prosecution that in the course of investigation, the investigating officer has visited the spot, conducted detailed mahazar and recorded the statements of witnesses and the material collected during investigation prima facie establishes the involvement of the petitioners in the crime in question and investigation is still in progress. The petitioners are politically and economically powerful and as such if at this stage, the petitioners are enlarged on bail, they may intimidate the complainant and they may also cause threat to his life. The petitioners may flee from investigation and in turn, they may cause hindrance to the investigation. The petitioners may tamper the prosecution evidence and involve themselves in 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 respondent No.2 has been secured to hear regarding this petition and he opposed granting bail to the petitioners. He has been represented by the counsel and adopted the objections filed by the prosecution by filing memo to that effect.



6. Heard arguments of 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 and 2 in Crime No.1/2026 on the file of DCRE police Chikkamagaluru 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 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 28.02.2026, the respondent police registered case in Crime No.1/2026



on the basis of the complaint lodged by one Ganesh K.U against the petitioners for the offences punishable under sections 118(1) of BNS r/w section 3(5) of BNS and sections 3(1)(s), 3(2)(va) and 3(1)(za)(C) of SC and ST (POA) Act, 2015.

11. It is alleged by the informant that the festival of deity Mullappaswamy located at Sirgapura village, Amble hobli, Chikkamagaluru Taluk has been held every year for many years. That the informant belongs to Holeyya, a Scheduled Caste and he resides at said village. That on 24.02.2026 in between 6.30 a.m and 7.00 a.m when fair was going on, the petitioner No.1, who is a priest and the petitioner No.2, a resident of Bigga Devenahalli village, who belong to Lingayath community, abused him by touching his caste as he stood near burning coal (ಕೆಂಡ). The petitioner No.2 assaulted him and then the petitioner No.1 assaulted him with a stick. The petitioners abused him by saying that he belongs to a lower caste and he should stand away from that place. At that time, one Somashekhar T.E and Vinay were present at the spot. In the said regard, on 26.02.2026, he gave a requisition to the leaders of their committee, but they did not respond to it and as such reported complaint to the police. With these allegations, he has sought for action against the petitioners herein.

12. As stated above, the respondent police registered case against the 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 includes the offences punishable under SC & ST (Prevention of



Atrocities) Amendment 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 the 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. Recently 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. Recently 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 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 the abuse of the process of the Court, has impressed that the officers who institute an FIR based on any complaint, or 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. In the case on hand, as per the allegations made in the FIR, the petitioners are alleged to have abused the informant in filthy language by touching his caste and they are also alleged to have assaulted him for standing near burning coal in the festival of a God in the village and said incident is said to have been witnessed by two persons. By highlighting the same, it is contended by the learned counsel for the petitioners that if at all the incident as alleged by the informant had taken place amidst a fair in the village,



it would have been viewed by the public at large and chaos would have taken place amongst the people of different community in the said regard, but in the case on hand, no such chaos had taken place and as such it is difficult to believe the allegations made by the informant against the petitioners. It is further contended by the learned counsel for the petitioners that the alleged incident had taken place on 24.02.2026 in between 6.30 a.m to 7 a.m as per the averments made in the first information, but it came to be reported to the police only on 28.02.2026 and thus there is delay of 04 days in reporting the alleged incident to the police and from this it is clear that the allegations made against the petitioners are deliberate, afterthought and baseless.

18. It is also contended by learned counsel for petitioners that if at all the incident as alleged by the informant had taken place that too in a fair of a God at village, then certainly it would have been reported in the media and other social platforms, but the alleged incident is not published in any media and this aspect also throw doubt regarding the allegations leveled against the petitioners. It is contended by the learned counsel for the petitioners that the averments made in the first information indicates that it was not drafted or narrated by the informant, but by someone on his behalf. By highlighting the same, it is further contended by the learned counsel for the petitioners that the incident as alleged by the informant had not taken place at any point of time, but the petitioners have been falsely implicated in the crime in question by the informant at the instigation of some persons who aimed at the post of priest of the temple and in order to remove the petitioners from their post.



19. Further it is vehemently contended by the learned counsel for the petitioners that as per the allegations made in the first information, the petitioners had assaulted the informant and petitioner No.1 had assaulted him with a bamboo stick, but it is not the case of the informant that he had sustained any injuries and took treatment in any of the hospitals in the said regard and as such it is difficult to believe the allegations leveled against the petitioners at this stage. Having regard to these aspects, this court is of the opinion that the veracity of the allegations made against the petitioners by the informant 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) 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 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 the petitioners becoming subject of humiliation if arrested cannot be ruled out.

23. Besides that though the offences alleged against the petitioners 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 petitioners is required for custodial interrogation and further there is nothing on record to show that it is difficult to secure their presence for investigation and trial without arresting and detaining them in custody. Further, there is nothing on record to show that petitioners are placed in such a position that they are able to threaten, intimidate and influence the prosecution witnesses and to tamper its evidence.

24. 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***.

25. **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, who are arraigned as accused No.1 and 2 in Crime No.1/2026 on the file of DCRE police station, Chikkamagaluru are ordered to be enlarged on bail in the event of their arrest in the said case registered against them for the offences punishable under sections 118(1) of BNS r/w section 3(5) of BNS and sections 3(1)(s), 3(2)(va) and 3(1)(za)(C) of SC and ST (Prevention of Atrocities) Amendment Act, 2015 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 one surety 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 16th day of March, 2026)

(Bhanumathi B.C)
I Addl. Sessions and Special Judge
Chikkamagaluru