



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

Dated this the 24th day of March, 2026

:PRESENT:

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

Crl.Misc.No.156/2026

Petitioner:

Afshad,
S/o Zulfikar Anjum
Aged about 19 years,
R/at Iyappanagara,
Channel area,
Chikkamagaluru.

(Represented by Sri.DEJ, Adv)

-V/s-

Respondents:

1. State by Basavanahalli police
2. Smt.Sudha,
Women Supervisor,
CDPO office,
Chikkamagaluru.

(Both are represented by
Special Public Prosecutor,
Chikkamagaluru)

ORDER

The petitioner, who is arraigned as accused No.3 in Crime No.14/2026 on the file of Basavanahalli police station 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 for the offences punishable under sections 310(2), 62 and 352 of Bharatiya Nyaya Sanhita, 2023 (hereinafter referred as BNS for brevity) and sections 3(1)(r), 3(1)(s) and 3(2)(va) 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 him in the complaint, it is stated by the petitioner that he is innocent of the alleged offences, but he has been falsely implicated in the crime in question by creating a false story. That his name was not found in the FIR, but later the police have inserted his name in the remand application as accused No.3. 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 deep roots in the society 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, who is arraigned as respondent No.2 has been secured to hear regarding this petition and she opposed granting 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.3 in Crime No.14/2026 on the file of Basavanahalli police station 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 16.02.2026, the respondent police registered case in Crime No.14/2026 on the basis of complaint lodged by one Sudha H.G, the respondent No.2 herein against the accused for the offences punishable under sections 310(2), 62 and 352 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 she works as Superintendent at CDPO office, Chikkamagaluru, resides in a quarters of Taluk Panchayath and she belongs to Adi Karnataka, a Scheduled Caste. As they belong to said caste, some miscreants abused them and pelted stones on their house and when her daughter was alone in the house, they attempted to enter the house through back door to commit dacoity. That again on 16.02.2026, when said miscreants attempted to enter her house, she and other public caught hold of them and handed over them to



respondent police and she came to know that the names of two of them are Rihan S/o Rahil Beig and Hussain S/o Zulphikar and other four miscreants also belong to Muslim community of the age group between 20 to 30 years, she is not aware of their names, but they are the brother of one Zoher and others. With these allegations, the informant had sought for action against the accused.

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 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 petitioner to invoke the offences punishable under the provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

17. In the first information, it is alleged by the informant that some miscreants abused her and her family members and pelted stones on their house on the premise that they belong to a Scheduled Caste and attempted to enter their house to commit dacoity and it is further alleged that on 16.02.2026 at 9.30 p.m, they again tried to enter her house and at that point of time, they caught hold of them and handed over them to the respondent police and later she came to know about the names of two of them, who are arraigned as accused No.1 and 2. As per the allegations made in the first information, the informant party had caught hold of all six miscreants, who tried to enter their house on 16.02.2026 at 9.30 p.m and handed over them to respondent police, but it is pertinent to note that no such persons were produced before this court either on 16.02.2026 or on subsequent dates pertaining to crime in question. It is only on 20.02.2026, the accused No.2 was produced before this court and at that time, he had submitted to the court that he was apprehended by the respondent police on 19.02.2026 at 7 p.m at their station when he had gone there in connection with some other crime. If at all the version of the informant that they had caught hold of six miscreants and handed over them to the police as alleged in her first information were to be true, then why such persons were not arrested and produced before the court is yet to be unearthed in the investigation.



18. In addition to this, it is submitted that a case in Crime No.18/2026 on the file of respondent police has been registered on the basis of the complaint reported by one Vishwanatha H.V, the husband of the informant herein with similar allegations and it is further submitted that though initially FIR in Crime No.14/2026 has been registered against the persons belonging to Muslim community, in the CC camera footage, it was found that three persons of different community had committed the crime in question and as such subsequently, aforesaid Vishwanath had reported said complaint against them to respondent police. By submitting so, it is contended by the learned counsel for the petitioner that the accused is innocent of the alleged offences, but he has been falsely implicated in the crime in question. At this stage, it would not be feasible to comment on any of the allegations leveled in both the crimes. However, as noted above, though it is alleged by the informant that they had caught hold of all the miscreants and handed over them to the respondent police on 16.02.2026, as per the material made available on record, no such persons were produced before the court and in fact the accused No.2 was produced before this court on 20.02.2026 on the premise that he was arrested only on 19.02.2026.

19. I have carefully perused the objections filed by the prosecution and the report of the investigating officer, it is not their case that the presence of the petitioner is required for custodial interrogation. 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.3 in Crime No.14/2026 on the file of Basavanahalli police station 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



310(2), 62 and 352 of BNS 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 24th day of March, 2026).

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