



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

Dated this the 23rd day of March, 2026

:PRESENT:

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

Crl.Misc.No.157/2026

Petitioner: M.N.Vivek,
S/o Nanjegowda,
Aged about 40 years,
R/at Madhugundi village,
Sunkasale post,
Balur Hobli, Mudigere Taluk,
Chikkamagaluru District.

(Represented by Sri.NDK, Adv)

-V/s-

Respondents:

1. State by Balur Police,
Mudigere Circle,
Chikkamagaluru District.
2. Babu,
S/o Odi,
Aged about 62 years,
3. Smt.Jaji,
W/o Harish,
Aged about 32 years,
4. Harish,
Aged about 42 years,
All are residing at
Madhugundi village,
Sunkasale post,



Balur Hobli,
Mudigere Taluk,
Chikkamagaluru District.

(All are represented by
Special Public Prosecutor,
Chikkamagaluru)

ORDER

The petitioner, who is arraigned as accused in Crime No.12/2026 on the file of Balur police station has filed this petition under section 482 of Bharatiya Nagarika Suraksha Sanhita (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 126(2), 352, 118(1) and 351(3) of Bharatiya Nyaya Sanhita, 2023 (hereinafter referred as 'BNS' for the sake of brevity), sections 3 and 25(1B)(a) of Indian Arms Act, 1959 and sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and the 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 there is delay in lodging the complaint, one Lalithamma named in the complaint is the elder aunt of the petitioner. The informant and respondents No.3 and 4 are the coolie workers and they had availed advance amount from the petitioner to do coolie work, but they neither attended his coolie work nor returned his amount. When the petitioner insisted them to return his



amount by the end of February 2026, they informed that either they would go to his work in the first week of March 2026 or return his amount, but later they have come up with this false complaint at the instigation of owners of other estates. 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 movable and immovable properties and as such there is no chance of his abscondance if 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 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 other two victims, who are arraigned as respondent No.2 to 4 has been secured to hear regarding this petition and they opposed granting bail to the petitioners.

6. Heard arguments of both side and perused the record.

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

1. Whether petitioner, who is arraigned as accused in Crime No.12/2026 on the file of Balur 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 03.03.2026, the respondent police registered case in Crime No.12/2026 on the basis of complaint lodged by one Babu, the respondent No.2 herein against the petitioner for the offences punishable under sections 126(2), 352, 118(1) and 351(3) of BNS, sections 3 and 25(1B)(a) of Arms Act, 1959 and sections 3(1)(r), 3(1)(s) and 3(2)(va) of SC & ST (POA) Act.

11. In the complaint, it is alleged by the informant that he belongs to Kalladi, a Scheduled Caste and resides with his wife and four children at Madhugundi village by eking livelihood by doing coolie work in the surrounding estates. On 01.03.2026, as there was holiday on account of Sunday, the informant took one Harish, whom he knew and his wife Jaji, who were working in the estate of one Lalithamma to whom estate he frequently used to go and went to the work at the estate of his friend Vincent and that on 02.03.2026 at 7.PM, when he and said Vincent were proceeding to the coolie line house of aforesaid Harish at the estate of Lalithamma to give them wages, this petitioner, who held a gun intercepted them at the public road at Madugundi near aforesaid estate, abused the informant in filthy language by touching his caste by questioning him as to why he had not gone to his estate for work and took workers to others estate and by saying so, the petitioner pointed gun to his chest and assaulted on his back and right shoulder with its barrel, then the petitioner slapped him,



pushed him to the ground and kicked on his abdomen. At that time, when aforesaid Harish and his wife Jaji came there, the petitioner slapped said Harish assaulted his wife Jaji with gun on her forehead and caused bleeding injury. When aforesaid Vincent was pacifying the scuffle, the informant called his neighbor Poovappa over phone and then said Poovappa came to the spot, pacified the quarrel and took informant and aforesaid Jaji to government hospital at Mudigere for treatment. With these allegations, the informant has sought for action against petitioner.

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. As per the allegations made in the first information, the petitioner is alleged to have abused the informant in filthy language by taking the name of his caste for not going to his estate for work and for taking the workers to the estate of others. The petitioner is alleged to have assaulted the informant with the barrel of a gun on his back and shoulder and he is also alleged to have slapped one Harish, who intervened and assaulted his wife Jaji with a gun on her forehead causing bleeding injury. On the other hand, it is contended by learned counsel for petitioner that the informant had obtained some amount as advance from this petitioner for doing work at his estate, but later he neither went to his work nor returned his amount and when the petitioner insisted the informant to return his amount, he has come with this complaint by making false allegations against this petitioner at the instigation of other estate owners.

18. As per the allegations made in the first information, the informant and aforesaid Jaji took treatment at Government Hospital, Mudigere and thereafter he reported the complaint in question to the respondent police. It is pertinent to note that no MLC intimation to the effect that the informant or aforesaid Jaji had taken treatment in any of the hospitals with the history of alleged assault has been received by the



respondent police. It is also relevant to note that the aforesaid information has been reported by the informant personally to the police at the station. Moreover even while hearing the bail application, the prosecution has not submitted any material on record to show that the informant or aforesaid Jaji had indeed suffered any injuries in the alleged incident and in the said regard they had taken treatment. Thus absolutely no material has been placed on record at this stage to assess the nature and injuries said to have been suffered by the informant or aforesaid Jaji as well as the seriousness of the allegations leveled against the petitioner.

19. Further it contended by the learned counsel for petitioner that as per the averments made by the informant, the alleged incident took place on 02.03.2026 at 7 p.m and there is nothing on record to show that the informant or aforesaid Jaji had suffered injuries and taken treatment in the said regard in any of the hospitals, but said incident came to be reported to the police only on 03.03.2026 at 3 p.m and it is contended by learned counsel for the petitioner that there is no explanation as such in the first information report regarding said delay in lodging the complaint and these aspects clearly indicate that the allegations leveled against the petitioner are deliberate, baseless and result of afterthought.

20. Further it is vehemently argued by learned counsel for petitioner that in the case on hand, the offences punishable under sections 3(1)(r) and 3(1)(s) of SC & ST (POA) Act have been invoked against the petitioners, but in order to invoke said offences, the alleged abuse, insult or intimidation has to be made in



any place within public view, but in the case on hand, as per the averments made in the first information, there is no allegation to the effect that the alleged abuse, insult or intimidation was made in public view and the same is witnessed by anyone other than the accused and the complainant party. Having regard to these aspects and further having regard to the fact that there is no specific averment in the complaint to the effect that the alleged caste based abuse, insult or intimidation was made in public view, this court is of the opinion that the veracity of the allegations made against the petitioner by the informant is required to be unearthed in the investigation.

21. 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.

22. 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.

23. 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 he becoming the subject of humiliation if arrested cannot be ruled out.

24. 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.

25. 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***.

26. **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 in Crime No.12/2026 on the file of Balur 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 126(2), 352, 118(1) and 351(3) of Bharatiya Nyaya Sanhita 2023 and sections 3(1)(r), 3(1)(s) and 3(2)(va) of SC and ST (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 one surety 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 23rd day of March, 2026]

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