

KADG010007172026



Presented on : 27-02-2026  
Registered on : 28-02-2026  
Decided on : 13-03-2026  
Duration : 0 years, 0 months, 14 days

**IN THE COURT OF  
II ADDL. DISTRICT AND SESSIONS JUDGE  
AT DAVANAGERE**

**(PRESENT:- SRI. PRAVEEN KUMAR. R.N, B.Com, LL.B. )  
II ADDL. DISTRICT AND SESSIONS JUDGE,  
DAVANAGERE**

**DATED THIS THE 13TH DAY OF MARCH, 2026**

**Crl.Misc./201/2026**

**PETITIONER/S :**

1. Rafiq @ Mahammed Rafiq, S/o  
Late Hussain Sab, 59 years,  
Hotel Business, (A.No.1),
2. Sadiq @ Sadiq R., S/o  
Mahammed Rafiq, 28 years,  
Hotel Business, (A.No.2),
3. Sadath R.S., S/o Mohammed  
Rafiq, 26 years, Hotel Business,

(A.No.3),  
All are R/o Anagodu Village,  
Davanagere Taluk & District,

**(By Smt./Sri H.H., Advocate),**

-V/s-

**RESPONDENT/S :**

State by Davanagere Rural Police  
Station,

**(By Learned Public Prosecutor)**

**: ORDERS ON BAIL PETITION FILED U/SEC.482 OF BNSS :**

The petition filed by the petitioners / Accused No.1 to 3 U/s.482 of BNSS, with a prayer to grant them an order of bail with respect to Cr.No.82/2026 of Respondent Police Station registered for the offences punishable under Sec. 109(1), 115(2), 351(2), 352 R/w.Sec. 3(5) of BNSS and Sec.3(1)(s), 3(1)(r), 3(2)(v-a) of SC/ST (POA) Act, 1989.

2. Grounds for bail : The petitioners contend that the case has been lodged against them with mala fide intent to illegally arrest them and to subject them to mental and physical harassment.

3. The petitioners further asserts that they are respectable individuals, well-rooted in society. Their permanent residence is at the address mentioned in the cause title. They argues that if they arrested

by the respondent police, their reputation in society will be tarnished. They claims that a false complaint has been filed solely to harass them and damage their social standing. Consequently, the petitioners are under a reasonable apprehension of being arrested by the respondent police.

4. The petitioners submits that if granted bail, they are willing to comply with any conditions imposed by the court and are prepared to furnish sufficient surety for the satisfaction of the court. Hence, pray for the bail petition to be allowed.

5. The petitioners also contended in the petition that, there is a counter case in respect of the alleged offences under Sec. 115(2), 74, 352, 351(2) R/w.Sec.3(5) of BNSS of 2023 in respondent Police Station in Crime No.84/2026 on 20.02.2026. Hence, petitioners pray for relief of anticipatory bail in respect of their arrest by the police.

6. On the other hand, the learned Public Prosecutor (PP) filed objections to the petition, contending that the offence under Section 109(1) of BNSS is cognizable and non-bailable. The learned PP argued that if the petitioners are released on bail, there is a possibility of interference with the investigation by the Investigating Officer (IO) and a risk of tampering with prosecution witnesses or evidence. The learned PP further contended that the petitioners have not provided sufficient

reasons for granting bail. Hence, he prayed for the bail petition to be rejected.

7. Upon perusal of the petition, objections, FIR, and IO report, I have framed the following points for consideration:

1. Whether the petitioners are entitled to the relief of bail under Section 482 of BNSS?

2. What order?

8. My answers to the above points are as follows:

Point No.1: In the Affirmative

Point No.2: As per the final order, for the following:

### **REASONS**

#### **Point No.1:**

9. The brief facts of the case are as follows: The complainant is a housewife, and her husband is running a shop in the name of Jeevan Enterprises at Holalker Road. He usually closes his shop at around 9.30 p.m. On 19.02.2026, Santosh Kumar, a friend of petitioner No.1, had come to Sidra Restaurant for dinner. At that time, the complainant's husband requested that egg rice be served urgently to petitioners No.2 and 3, who are the sons of petitioner No.1 and are managing Sidra Hotel. It is alleged that petitioners No.2 and 3 abused the complainant's

husband in obscene and caste-based language, assaulted him with their hands and legs, and hit him on the knee with an iron rod with the intention of causing his death. During the said incident, Santosh Kumar intervened and tried to pacify the situation, but the petitioners assaulted him with their hands and legs, due to which he fled from the spot. It is further stated that the petitioners have also filed a complaint against the complainant in a separate crime. Thereafter, the complainant took her husband to SS High Tech Hospital for treatment. On the basis of these allegations, the complainant has filed a complaint against the petitioners.

10. The learned counsel for the petitioners argued that the petitioners have not committed the offences as alleged by the complainant. They are innocent and law-abiding citizens. The alleged offences are not punishable with imprisonment for life and are triable by this Court. The petitioners are permanent residents of the address mentioned in the cause title, have families to support, and are running Sidra Hotel, and they are the sole breadwinners. It is further submitted that the petitioners had recently opened the Sidra Restaurant and had invited guests for the opening function. The complainant's husband had also attended the opening ceremony as a chief guest along with other Gram Panchayat members of Anagodu.

11. The petitioners have no prior criminal record. If they are arrested, their family would suffer irreparable loss and hardship. They are willing

to furnish sufficient surety to the satisfaction of the Court and to abide by any conditions imposed by this Court. It is further submitted that the petitioners have produced a pen drive, which, according to them, contains the true facts of the case. Hence, they pray that the petition be allowed.

12. The learned counsel for the petitioners further contended that the complainant has filed a false complaint with an intention to harass them. No prima facie case is made out against the petitioners, and Sections 18 and 18(A) of the SC/ST (Prevention of Atrocities) Act do not apply to the facts of this case. If bail is granted, the petitioners are ready to abide by the conditions imposed by this Court and to furnish sufficient surety. Hence, the learned counsel prayed to allow the petition.

13. Per contra, the learned Public Prosecutor argued that a serious case has been registered against the petitioners. He further contended that Section 109(1) of BNSS prescribes punishment which may extend to imprisonment for life and that the case is of a grave nature. The learned Public Prosecutor further argued that the petitioners have not furnished cogent reasons for grant of bail and that a prima facie case is made out against them. He contended that if bail is granted, the petitioners may commit similar offences, interfere with the investigation, and threaten prosecution witnesses. Hence, he prayed for rejection of the bail petition.

14. The learned Public Prosecutor further contended that there is a prima facie case against the petitioners. The petitioners were aware that the complainant's husband belongs to a Scheduled Caste/Scheduled Tribe community and have allegedly insulted him by using his caste name in public view. The learned Public Prosecutor argued that when specific averments in the complaint disclose insult or humiliation by referring to caste, the petitioners are not entitled to anticipatory bail. He pointed out that in the present case, the complaint specifically states that the petitioners insulted the complainant's husband by referring to his caste in public.

15. The learned Public Prosecutor further argued that when a prima facie case exists, Sections 18 and 18(A) of the SC/ST (Prevention of Atrocities) Act operate as a bar to the grant of anticipatory bail. Considering the seriousness and gravity of the offence, he prayed for rejection of the bail petition. He has also produced certain photographs to demonstrate the nature of injuries sustained by the victim on his leg.

16. Before considering other aspects, it is necessary to determine whether Sections 18 and 18(A) of the SC/ST Act are applicable to the present case.

“The Hon’ble Supreme Court, in *Writ Petition (C) No.1016/2018 (Prathvi Raj Chauhan vs. Union of India and Others)*, has held that the provisions of Section 438 of Cr.P.C. shall not

apply to cases under the Act of 1989. However, if the complaint does not disclose a prima facie case under the Act, the bar under Sections 18 and 18(A) would not apply”.

17. I have also considered the ratio laid down in the recent decision of the Hon'ble Supreme Court in *Special Leave Petition (Criminal) No.8169/2025, Kiran v. Rajkumar Jivraj Jain and Another*, wherein it is held that before granting anticipatory bail, the Court must examine whether a prima facie case exists. At this stage, on going through the facts of the case, serious allegations have been levelled against the petitioners. The photographs produced by the prosecution indicate that the victim has sustained injuries to his leg. However, at the same time, on perusal of the contents of the pen drive produced by the petitioners, a different version of the incident emerges. Therefore, at this stage, it appears that there is doubt regarding the existence of a clear prima facie case so as to attract the bar under Section 18 of the Act. If such a prima facie case is made out, the bar under Section 18 of the SC/ST Act would apply and anticipatory bail cannot be granted.

18. Upon perusal of the entire records and the objections filed by the learned Public Prosecutor, it is well settled that the Court must exercise caution while granting bail in serious cases. The Court has to consider the following factors:

- (i) Whether there is any prima facie or reasonable ground to believe that the accused has committed the offence;
- (ii) The nature and gravity of the accusation;
- (iii) The severity of the punishment in the event of conviction;
- (iv) The likelihood of the accused absconding if released on bail;
- (v) The character, behaviour, means, position, and standing of the accused;
- (vi) The likelihood of the offence being repeated;
- (vii) The possibility of the witnesses being influenced; and
- (viii) The possibility of justice being thwarted by granting bail.

19. Considering the facts and circumstances of the case and the legal principles laid down, it appears that the petitioners did not have a clear intention to insult or humiliate the complainant's husband on the basis of his caste, and there exists doubt regarding the veracity of the allegations. Hence, at this stage, there is no legal impediment to grant anticipatory bail.

20. The Investigating Officer's report indicates that the preliminary investigation has been completed. The petitioners are known to the complainant's husband, are permanent residents, and have expressed their willingness to cooperate with the investigation. Whether the petitioners are actually involved in the commission of the offence is a matter to be determined during trial and cannot be conclusively decided at this stage. The Investigating Officer's report does not disclose any

specific reason necessitating further custodial interrogation of the petitioners. At this stage, it appears that the allegations require further scrutiny during trial.

21. Considering all the above aspects, I am of the opinion that the petitioners are entitled to anticipatory bail, subject to imposing stringent conditions to safeguard the interest of the prosecution. Accordingly, I answer **Point No.1 in the Affirmative.**

22. **Point No.2 :-** In view of the finding of this court on point No.1, I proceed to pass the following :-

### **O R D E R**

The Petition filed by the petitioners / accused No.1 to 3 U/s.482 of BNSS, is hereby allowed.

Petitioners are ordered to be released on bail in the event of their arrest in Cr. No.82/2026 of Respondent police station, for the offences punishable U/Sec. 109(1), 115(2), 351, 352 R/w.Sec. 3(5) of BNSS and Sec.3(1)(r), 3(1)(s), 3(2)(v-a) of SC/ST (POA) Act, on executing their personal bond for Rs.50,000/-, with a surety for like-sum, and subject to following conditions : -

- 1) Petitioners shall surrender before the IO within 10 days from today.
- 2) They shall co-operate with the IO in proper investigation of the case.
- 3) They shall not tamper the prosecution evidence and threaten the prosecution witnesses directly or indirectly.
- 4) They shall not commit similar type of offences in future.
- 5) They shall appear before court regularly and shall furnish bond and surety as and when directed by the court.
- 6) They shall provide the address proof before the IO and court.

The violation of the above conditions entails cancellation of the bail.

( Directly dictated to the Stenographer on the computer, corrected, singed and then pronounced by me in the open court on this the 13<sup>th</sup> day of March 2026 ),

(Praveen Kumar. R.N, )  
II ADDL. DISTRICT & SESSIONS JUDGE,  
DAVANAGERE.

Order pronounced in the open court  
(Vide separate order)

**O R D E R**

The Petition filed by the petitioner / accused No.1 U/s.438 of Cr.P.C., is hereby allowed, subject to conditions.

II ADJ, Davanagere.