



**IN THE COURT OF I ADDL. DISTRICT & SESSIONS
JUDGE AND SPECIAL JUDGE, AT HAVERI.**

PRESENT : Sri. N.M.Ramesha, *B.com, LL.B., LLM*
I Addl. District & Sessions Judge
& Spl. Judge, Haveri.

DATED THIS THE 5th DAY OF JUNE 2026

CRL.MISC.NO :284/2026

- Petitioners/
Accused No.2 & 6
- 1 Basavaraj S/o
Guddappa Yalagach,
Age: 38 years,
Occ: Business.
 - 2 Manjavva @ Pushpa W/o
Basavaraj Yalagach,
Age: 32 years,
Occ: Household work,
Both are R/o: Hesarur,
Savanur taluk, Haveri district.

(Sri.P.S. Iragond., Advocate)

V/s

- Respondents
- 1 The State by Savanoor police
station
(By Learned P.P)
 - 2 Udachappa S/o Shivappa Talawar,
Age: 31 years, Occ: Agriculture.
R/o: Hesarur,
Savanur taluk, Haveri district.

ORDERS ON ANTICIPATORY BAIL PETITION FILED BY THE
PETITIONERS No.1 AND 2/ACCUSED No.2 AND 6 UNDER THE
PROVISIONS OF SECTION 482 OF BNSS, 2023

This order arises from the bail petition filed by the petitioners No.1 and 2/accused No.2 and 6 under the provisions of Section 482 of BNSS 2023, seeking anticipatory bail for the offences punishable under the provisions of Sections 189(2), 191(2), 115(2), 351(2) and 352 R/w Section 190 of BNS, 2023 and Section 3(1)(r) and 3(2)(va) of SC/ST (POA) Act.

2. The facts leading to filing of this bail petition and the facts constituting the case of prosecution in brief is as under:

On 09.05.2026, at about 9.10 p.m., the first informant has lodged a first information before the SHO of Savanoor Police Station inter-alia alleging that, on 08.05.2026, at about 10.00 a.m., when Sri. Mahadevappa who is the brother of first informant was cleaning ox by tying them into a bushes, the petitioner No.2 abused him in filthy language and threatened with dire consequences. Again at about 9.00 p.m., on the same day, the accused persons put plastic pipes into drainage for flow of drainage water and when first informant and his another brother Channaveerappa enquired with the same, the petitioners and other accused persons abused them in filthy language taking the name of their caste and the accused No.4 assaulted with hands on the limbs of first

informant, pulled them, caused hurt and also threatened with dire consequences to take away their lives. Therefore, the first informant has requested the police to take suitable action against the petitioners/accused No.2 and 6 and others.

3. Based on the said first information, the Savanur police have registered the case against the petitioners /accused No.2 and 6 and others in Crime No.126/2026 for the offences punishable under the provisions of Sections 189(2), 191(2), 115(2), 351(2) and 352 R/w Section 190 of BNS, 2023 and Section 3(1)(r) and 3(2)(va) of SC/ST (POA) Act., forwarded FIR to the court and further investigation was undertaken. During the course of investigation, the investigating agency are searching the petitioners/accused No.2 and 6 for arrest.

4. This is how this present bail petition being filed by the petitioners/accused No.2 and 6 seeking anticipatory bail for the alleged offences punishable under the provisions of Sections 189(2), 191(2), 115(2), 351(2) and 352 R/w Section 190 of BNS, 2023 and Section 3(1)(r) and 3(2)(va) of SC/ST (POA) Act.

5. Notice of the bail petition has been given to the prosecution as well as first informant/victim/injured.

6. The Learned P.P for State has resisted the anticipatory bail petition by filing detailed objections.

7. On service of notice on bail petition, the complainant, victim and injured have appeared before the court and prays to reject the bail application.

8. I have heard the arguments of both side and perused the bail application, objection and the materials placed on record.

9. Now the points that would arise for my consideration are as under:

1. Whether the petitioners/accused No.2 and 6 are entitled to be released on anticipatory bail and whether the bail petition filed by the petitioners/accused No.2 and 6 under the provisions of section 482 of BNSS 2023, is deserves to be allowed ?
2. What order?

10. On considering the materials placed on record, now my answer to the above points are as under:

Point No. 1 : In the **Affirmative**,

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

REASONS

11. POINT NO. 1 :- I have already narrated in brief as to the facts leading to filing of this bail petition and as to the facts constituting the case of the prosecution. Along with bail petition, the Learned counsel for the

petitioners/accused No.2 and 6 have produced the certified copies of FIR in Cr.No.126/2026, first information dated 09.05.2026 and Aadhaar cards. The Learned P.P for State also produced I.O report, copy of the FIR and first information.

12. As per the allegations made in the first information, F.I.R and other prosecution papers, the petitioners/accused No.2 and 6 alleged to have committed the offences punishable under the provisions of Sections 189(2), 191(2), 115(2), 351(2) and 352 R/w Section 190 of BNS, 2023 and Section 3(1)(r) and 3(2)(va) of SC/ST (POA) Act. But, the petitioners/accused No.2 and 6 have denied the allegations in the bail petition.

13. According to the case made out by the prosecution at this stage of proceedings that, 08.05.2026, at about 10.00 a.m., when Sri. Mahadevappa who is the brother of first informant was cleaning ox by tying them into a bushes, the petitioner No.2 abused him in filthy language and threatened with dire consequences. Again at about 9.00 p.m., on the same day, the accused persons put plastic pipes into drainage for flow of drainage water and when first informant and his another brother Channaveerappa enquired with the same, the petitioners and other accused persons abused them in filthy language taking the name of their caste and the accused No.4 assaulted with hands on the limbs of first

informant, pulled them, caused hurt and also threatened with dire consequences to take away their lives.

14. But, it is contended in the bail petition that, the petitioners/accused No.2 and 6 are an innocents and have not committed any alleged offences and the petitioners/accused No.2 and 6 are noway concerned to the alleged incident and the first informant has filed false false information to harass the petitioners/accused No.2 and 6 and the first informant has filed false case at the instigation of ill-wishers of the petitioners and the alleged offences are not punishable either for death or for imprisonment for life and therefore, the petitioners/accused No.2 and 6 are entitled for bail.

15. Under these circumstances, whether the petitioners/accused No.2 and 6 have committed the alleged offences punishable under the provisions of Sections 189(2), 191(2), 115(2), 351(2) and 352 R/w Section 190 of BNS, 2023 and Section 3(1)(r) and 3(2)(va) of SC/ST (POA) Act., or not is a matter which requires evaluation of materials collected during the course of further investigation and evaluation of evidence to be recorded at the trial. Further, whether the petitioners/accused No.2 and 6 have been implicated in crime without any materials or not is also a matter which requires evaluation of material to be collected during the course of further investigation and evaluation of evidence

to be recorded at the trial. Further, whether the delay in lodging first information is fatal to the prosecution or not and whether the prosecution would be able to explain delay in lodging first information during the trial is also a matter which requires evaluation of evidence to be recorded at trial. But, at this stage of proceedings, the Court cannot conduct mini trial so as to adjudicate the controversy between prosecution and the defense.

16. But, at this stage of proceedings the Court while considering anticipatory bail petition of this nature has to consider whether the accused would be readily available for their trial and whether they are likely to abuse the discretion granted in their favour by tampering with evidence and if there is no prima facie case, there is no question of considering the circumstances. But, even where a prima facie case is established, the approach of the Court in the matter of bail is not that the accused should be detained by way of punishment, but whether the presence of the accused would be readily available for trial or that they are likely to abuse the discretion granted in their favour by tampering with evidence. Further, the court has to consider as to whether there are any chances of the accused being fleeing away from justice and whether the accused would tamper with the prosecution witnesses. If the answer to this question is in the negative, then the accused will have to be granted

bail. It is equally true that while considering a bail petition, the court should consider the gravity and seriousness of the offence alleged.

17. Now keeping the principles of law of bail in mind, let us consider as to whether the petitioners /accused No.2 and 6 are entitled for anticipatory bail or not. No doubt it is true that on careful reading of the provision of sections 18 of SC/ST (P.A.) Act, it would indicate that there is a bar to entertain the petition filed under the provision of section 438 of Cr.P.C., now section 482 of BNSS 2023 seeking relief of anticipatory bail, when there are allegations of committing of offences under the provision of SC/ST (P.A.) Act.

18. But, the Hon'ble Supreme Court in a decision reported in **(2018) 6 SCC P-454 – Dr.Subhash Kashinath Mahajan vs. The State of Maharashtra and another** has pleased to laid down the principles and also held that there is no absolute bar to entertain bail application filed under the provision of section 438 of Cr.P.C., when the case is registered under SC/ST (P.A.) Act for anticipatory bail, if no prima facie case is made out or where on judicial scrutiny the complaint is found to be prima facie malafide complaint.

19. The Hon'ble Supreme Court in **W.P. [C] No.1015/2018** has also pleased to held that if the complaint does not make out a prima facie case in

applicability of the provisions of the Act of SC/ST (P.A.) Act, the bar created by Section 18 and 18A(i) shall not apply.

20. The Hon'ble High Court of Karnataka has also pleased to held in **Criminal Petition No.4306/2018** that Section18-A has not taken the powers of the Court to grant anticipatory bail, if the complaint does not disclose caste based attack, which means existence of a clear intention to insult or humiliate a member of Scheduled Caste or Scheduled Tribe or to commit a crime in the nature of atrocity to target a person or persons belonging to such caste just because they belong to that caste or tribe.

21. From the principles laid down in the above decisions, it is crystal clear that the position of law is very much clear that restrictions or power imposed by the Legislature to entertain the petition under section 438 of Cr.P.C., or section 482 of BNSS 2023 is not an absolute bar and therefore this court is of the considered view that the Court is empowered to entertain the petition under section 438 of Cr.P.C., if there is no prima facie material to show that the offence is committed under the light and spirit of SC/ST (P.A.) Act.

22. It is pertinent to note here that in the case on hand, the offences alleged against the petitioners/accused No.2 and 6 are punishable under the

provisions of Sections 189(2), 191(2), 115(2), 351(2) and 352 R/w Section 190 of BNS, 2023 and Section 3(1)(r) and 3(2)(va) of SC/ST (POA) Act. The maximum imposable sentence for the alleged offences is less than 5 years if the guilt is proved during the course of trial, which is admittedly requires full-fledged trial.

23. But, the alleged offences are neither punishable with death nor for imprisonment for life or for any longer period. The alleged offences are triable by this court only. The punishment entailing to an offence also plays an important and vital role in considering bail application of this nature. This is one of the aspect of the matter in this case.

24. I have gone through the contents of first information and also contents of FIR. It is pertinent to note here that, in the first information it is alleged that the petitioners picked up the quarrel with first informant and abused in filthy language taking the name of his caste, assaulted with hands and threatened with dire consequences to take away his life. The allegations are in general terms. But, there is no individual overt act of each petitioners.

24. It is well settled position of law that bail cannot be withheld as a pre-trial punishment. But, on the other hand, it is said that the bail is a pre-trial release. There is no materials to show that there were criminal

antecedents against the petitioners or any previous conviction on the petitioners for similar offences. The prosecution has not placed any materials at this stage of proceedings to show that on account of incident, the first informant has sustained any grievous injuries and admitted in the hospital. But, on the other hand, the injured is already discharged from the hospital as per submission of both the side. The dispute between the first informant and the petitioners is with respect to drainage and flow of water, which is civil in nature. The petitioners are the members of same family aged about 38 years and 32 years, out of them petitioner No.2/accused No.6 is a female. There was a delay in lodging first information, for which, there is no explanation at this stage of the proceedings. Therefore, considering the facts and circumstances of the case, including the nature of the offences alleged against the petitioners/accused No.2 and 6, this court is of the considered view that, the petitioners/accused No.2 and 6 can be granted anticipatory bail by imposing suitable conditions. The apprehension of the prosecution can be taken care of by imposing suitable conditions on the petitioners. The petitioners/accused No.2 and 6 undertake to abide by the conditions that may be imposed by the court and assist the investigating officer for further investigation and interrogation. Hence, I hold

that petitioners/accused No.2 and 6 are entitled to be released on anticipatory bail and the petition filed by the petitioners/accused No.2 and 6 under the provisions of section 482 of BNSS, 2023 is deserves to be allowed. Hence, in view of my above said reasons, I answer point No.1 in the **affirmative**.

26. POINT NO. 2 : In view of my findings on point No.1, I proceed to pass the following.

ORDER

The petition filed by the petitioners/accused No.2 and 6 under the provisions of Section 482 of BNSS 2023 is hereby allowed.

The petitioners/accused No.2 and 6 are ordered to be released on anticipatory bail in the event of their arrest in respect of Cr.No.126/2026 of Savanur police station for the offences punishable under the provisions of Sections 189(2), 191(2), 115(2), 351(2) and 352 R/w Section 190 of BNS, 2023 and Section 3(1)(r) and 3(2) (va) of SC/ST (POA) Act, on their executing a personal bond for Rs.1,00,000/- each with two sureties for the likesum subject to the following:

CONDITIONS

1. The petitioners/accused No.2 and 6 shall make themselves available for investigation and interrogation by a police officer as and when required.

2. The petitioners/accused No.2 and 6 shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer.
3. The petitioners/accused No.2 and 6 shall not leave India without the previous permission of the court.
4. The petitioners/accused No.2 and 6 shall not commit or repeat similar offence in future days.
5. The petitioners/accused No.2 and 6 shall appear before this court on all the dates of hearing without fail.
6. The petitioners/accused No.2 and 6 shall furnish their address proof documents before the investigating officer and also before the Court.
7. The petitioners/accused No.2 and 6 shall approach the investigating officer within 15 days from the date of order and comply the bail conditions without fail and on their appearance, the Investigating Officer is at liberty to take them to custody and complete the entire custodial interrogation and custodial investigation on the same day preferably within 6.00 p.m., and release them on bail in terms of the bail conditions without fail.
8. The petitioners/accused No.2 and 6 shall make their attendance before the Jurisdictional Police Station on every second Sunday of every month in between 10.00 a.m., to 5.00 p.m.,

commencing from 19.06.2026 till filing of final report or till further orders whichever is earlier.

In the event of the petitioners/accused No.2 and 6 violate any of the bail conditions, then the prosecution is at liberty to move for cancellation of bail.

*(Dictated to the Stenographer directly on computer, typed by him, corrected, signed and then pronounced in the open Court on this the **5th day of June, 2026.**)*

(N.M.Ramesha)
I Addl. District and Sessions Judge,
& Spl. Judge, Haveri.