



**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 9th DAY OF JUNE 2026

CRL. MISC. NO : 301/2026

- Petitioners
- 1 Santosh @ Guddappa S/o
Siddappa Madiwalar,
Age: 39 years, Occ: Coolie,
R/o: Vidyanagar,
Behind PWD Quarters,
3rd Cross, Haveri.
 - 2 Sanjeev S/o Dundappa
Khainnavar,
Age: 39 years, Occ: Coolie,
R/o: 2nd Cross,
Manjunath Nagar, Haveri.
 - 3 Manjunath S/o Nagaraj
Madiwalar, Age: 36 years,
Occ: Coolie,
R/o: Vidyanagar,
4th Cross, 'B' Block, Haveri.
 - 4 Sharada W/o Nagaraj
Madiwalar, Age: 52 years,
Occ: Coolie, R/o: Vidyanagar,
4th Cross, 'B' Block, Haveri.
- (Sri. S.C. Pujar., Advocate)

V/s

Respondent : State by Haveri DCRE P.S
(By Public Prosecutor)

ORDERS ON ANTICIPATORY BAIL PETITION FILED BY THE
PETITIONERS/ACCUSED No.1 TO 4 UNDER THE PROVISIONS
OF SECTION 482 OF BNSS, 2023

This order arises from the bail petition filed by the petitioners/accused No.1 to 4 under the provisions of Section 482 of BNSS 2023, seeking anticipatory bail for the offences punishable under the provisions of Sections 115(2), 118(1), 308(2), 74, 352 and 351(2) R/w Section 3(5) of BNS, 2023 and Sections 3(1)(r) and 3(2)(va) of SC/ST (POA) Act.

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

On 27.05.2026, at about 9.00 p.m., the first informant has lodged a first information before the SHO of DCRE Police Station, Haveri, inter-alia alleging that, she belongs to Hindu Madar community, whereas the accused are belongs to Hindu Madival community. The first informant and her husband were the tenants under 1st accused on monthly rent of Rs.5,500/-. There was an altercation between first informant and 1st accused with respect to cleaning of vessels and cloths in the sink, for which, the first informant undertake to vacate the house

and since the mother-in-law of first informant was not feeling well, the first informant had been to Chitradurga and came to her house after two months. On 26.05.2026, at about 9.30 p.m., when first informant and her husband came and opened the lock, the 1st accused came and picked up the quarrel with first informant and her husband, abused her in filthy language taking the name of their caste and threatened with dire consequences to take away their lives and also assaulted with deadly weapons on the first informant and her husband and also snatched a neck chain. Therefore, the first has requested the police to take suitable action against the petitioners/accused persons.

3. Based on the said first information, the Haveri DCRE police have registered the case against the petitioners/accused in Crime No.7/2026 for the offences punishable under the provisions of Sections 115(2), 118(1), 308(2), 74, 352 and 351(2) R/w Section 3(5) of BNS, 2023 and Sections 3(1)(r) and 3(2)(va) of SC/ST (POA) Act., forwarded FIR to the court and further investigation was under taken. During the course of investigation, the investigating officer has visited the scene of offence, conducted spot mahazar and recorded the statement of the witnesses and also collected the material documents. Now the investigating agency are searching the petitioners/accused No.1 to 4 for arrest.

4. This is how this present anticipatory bail petition being filed by the petitioners/accused No.1 to 4 seeking anticipatory bail for the alleged offences punishable under the provisions of Sections 115(2), 118(1), 308(2), 74, 352 and 351(2) R/w Section 3(5) of BNS, 2023 and Sections 3(1)(r) and 3(2)(va) of SC/ST (POA) Act.

5. Copy of the bail petition has been given to the Learned P.P for State.

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

7. On service of notice, the first informant/injured have appeared before the court and prays to reject bail application.

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

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

1. Whether the petitioners/accused No.1 to 4 are entitled for grant of anticipatory bail and whether the bail petition filed under the provisions of section 482 of BNSS, 2023 is deserves to be allowed ?

2. What order ?

9. 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

10. 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 petitioners/accused No.1 to 4 have produced the certified copies of FIR in Cr.No.7/2026, first information dated 27.05.2026, Aadhaar cards and copy of FIR in Haveri Town P.S. Cr.No.71/2026. The Learned P.P for state also produced I.O report, copy of the FIR and first information.

11. As per the contents of first information, F.I.R and other prosecution papers, the petitioners/accused No.1 to 4 are alleged to have committed the offences punishable under the provisions of Sections 115(2), 118(1), 308(2), 74, 352 and 351(2) R/w Section 3(5) of BNS, 2023 and Sections 3(1)(r) and 3(2)(va) of SC/ST (POA) Act. But, the petitioners/accused No.1 to 4 have denied the allegations in the bail petition.

12. Under these circumstances, whether the petitioners/accused No.1 to 4 have committed the alleged offences punishable under the provisions of Sections 115(2), 118(1), 308(2), 74, 352 and 351(2) R/w Section 3(5) of BNS, 2023 and Sections 3(1)(r) and 3(2)

(va) of SC/ST (POA) Act., or not is a matter which requires evaluation of materials to be collected during the course of further investigation and also evaluation of evidence to be recorded at trial. Further, whether the petitioners/accused No.1 to 4 have been implicated in the crime without any materials or not is also a matter which requires evaluation of materials 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 the 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 materials to be collected during the course of further investigation and evaluation of evidence to be recorded at trial. But, at this stage of proceedings, this Court cannot conduct a mini trial to adjudicate all these controversies between the prosecution and the defence, which requires full-fledged trial.

13. But, at this stage of the proceedings, the Court while considering the 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. If there is no prima facie case, then 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 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 the seriousness of the offence alleged.

14. Now keeping the principles of law of bail in mind, let us consider as to whether the petitioners/accused No.1 to 4 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. It is pertinent to note here that in the case on hand, the offences alleged against the petitioners/accused No.1 to 4 are punishable under the provisions of Sections 115(2), 118(1), 308(2), 74, 352 and 351(2) R/w Section 3(5) of BNS, 2023 and Sections 3(1)(r) and 3(2)(va) of SC/ST (POA) Act. The maximum imposable sentence for the alleged offences is less than 7 years. Therefore, the alleged offences against the petitioners are not punishable either with death sentence or with imprisonment for life. The punishment entailing to an offences certainly plays a vital role in deciding its seriousness and gravity. This is one of the aspect of the matter in this case.

20. I have gone through the contents of the first information and also contents of FIR, which reveals that the petitioners/accused No.1 to 4 alleged to have abused the first informant and her husband in filthy language taking the name of their caste, assaulted with hands and threatened with dire consequences to take away their lives by deadly weapons. The allegations made in the

first information against the petitioners/accused No.1 to 4 are in general terms, but there is no individual overt act of each petitioners.

21. As could be seen from the materials placed on record, a counter case has been registered against the first informant and others in Cr.No.71/2026. It is not the case of the prosecution that on account of alleged incident, either first informant or her husband or anybody have sustained any nature of injuries and admitted to hospital for treatment. No such case is made out by the prosecution at this stage of the proceedings.

22. 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 dispute between the first informant and petitioners are appears to be civil in nature with respect to tenancy dispute and payment of rent. Therefore, considering the facts and circumstances of the case, including the nature of the offences alleged against the petitioners/accused No.1 to 4 and considering the age factor of the petitioners and also in view of counter case against first informant and her family members, this court is of the considered view that, the petitioners/accused No.1 to 4 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.1 to 4 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.1 to 4 are entitled to be released on anticipatory bail and the petition filed by the petitioners/accused No.1 to 4 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**.

23. 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.1 to 4 under the provisions of Section 482 of BNSS 2023 is hereby allowed.

The petitioners/accused No.1 to 4 are ordered to be released on anticipatory bail in the event of their arrest in respect of Cr.No.7/2026 of Haveri DCRE police station for the offences punishable under the provisions of sections 115(2), 118(1), 308(2), 74, 352 and 351(2) R/w Section 3(5) of BNS, 2023 and Sections 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.1 to 4 shall make themselves available for investigation and interrogation by a police officer as and when required.
2. The petitioners/accused No.1 to 4 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.1 to 4 shall not leave India without prior permission of the court.
4. The petitioners/accused No.1 to 4 shall not commit or repeat similar offence in future days.
5. The petitioners/accused No.1 to 4 shall appear before this court on all the dates of hearing without fail.
6. The petitioners/accused No.1 to 4 shall approach the investigating agency within 15 days from the date of this order and comply the conditions of bail order without fail.
7. The petitioners/accused No.1 to 4 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 23.06.2026 till filing of final report or till further orders whichever is earlier.

In the event of the petitioners/accused No.1 to 4 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 **9th day of June, 2026.**)*

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