

KAHV010018482026



**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 6th DAY OF JUNE 2026

CRL. MISC. NO : 297/2026

Petitioners

- 1 Altaf Ahemad S/o
Hamidsab Patil,
Age: 41 years,
Occ: Coolie,
R/o: Akki-Alur,
Hanagal taluk, Haveri district.
- 2 Abdulkhadar Jilani S/o
Rabbansab Patil,
Age: 46 years,
Occ: Coolie,
R/o: Halur Oni, Akki-Alur,
Hanagal taluk, Haveri district.
- 3 Mohiddinsab S/o
Abdulghani Jakati,
Age: 41 years,
Occ: Coolie,
R/o: Akki-Alur,
Hanagal taluk, Haveri district.
- 4 Imran S/o Abdulsammad
Banavasi, Age: 43 years,
Occ: Coolie,

R/o: Maqbuliya Nagar,
Akki-Alur, Hanagal taluk,
Haveri district.

(Sri. K.P.Haravi., Advocate)

V/s

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

ORDERS ON ANTICIPATORY BAIL PETITION FILED BY THE
PETITIONERS/ACCUSED No.2 TO 5 UNDER THE PROVISIONS
OF SECTION 482 OF BNSS, 2023

This order arises from the bail petition filed by the petitioners/accused No.2 to 5 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), 191(3), 115(2), 118(1), 351(3) and 352 R/w Section 190 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 29.05.2026, at about 1.00 p.m., the first informant has lodged a first information before the SHO of Hanagal Police Station, inter-alia alleging that, on 28.05.2026, at about 1.30 p.m., he has received an information to the effect that the accused were indulged in cow slaughter for Bakrid at Mehaboob Nagar of Akki-Alur and

therefore, the first informant and his friends went to Mehaboob Nagar on their Swift Dezire car and get down from the car and started to video recording, for which, the first accused has snatched the mobile of first informant and the other accused have abused first informant in filthy language taking the name of his caste and also threatened with dire consequences and 2nd accused hold the shirt collar of first informant and the 4th accused has hold the neck and accused No.1, 2 and 5 have assaulted with hands on first informant and also hold knife and clubs and threatened with dire consequences to take away his life. Therefore, the first has requested the police to take suitable action against the accused persons.

3. Based on the said first information, the Hanagal police have registered the case against the petitioners/accused in Crime No.113/2026 for the offences punishable under the provisions of Sections 189(2), 191(2), 191(3), 115(2), 118(1), 351(3) and 352 R/w Section 190 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.2 to 5 for arrest.

4. This is how this present anticipatory bail petition being filed by the petitioners/accused No.2 to 5 seeking anticipatory bail for the alleged offences punishable under the provisions of Sections 189(2), 191(2), 191(3), 115(2), 118(1), 351(3) and 352 R/w Section 190 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.

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.2 to 5 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.2 to 5 have produced the certified copies of FIR in Cr.No.113/2026, first information dated 29.05.2026 and Aadhaar cards. 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.2 to 5 are alleged to have committed the offences punishable under the provisions of Sections 189(2), 191(2), 191(3), 115(2), 118(1), 351(3) and 352 R/w Section 190 of BNS, 2023 and Sections 3(1)(r) and 3(2) (va) of SC/ST (POA) Act. But, the petitioners/accused No.2 to 5 have denied the allegations in the bail petition.

12. Under these circumstances, whether the petitioners/accused No.2 to 5 have committed the alleged offences punishable under the provisions of

Sections 189(2), 191(2), 191(3), 115(2), 118(1), 351(3) and 352 R/w Section 190 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.2 to 5 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.2 to 5 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.2 to 5 are punishable under the provisions of Sections 189(2), 191(2), 191(3), 115(2), 118(1), 351(3) and 352 R/w Section 190 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.2 to 5 alleged to have abused the first informant in filthy language taking the name of his caste, assaulted with hands and threatened with dire consequences to take away his life by holding knife and clubs and caused hurt. The allegations made in the first information against the petitioners/accused No.2 to 5 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.112/2026. It is not in dispute that the injured has already been discharged from the hospital as per the submission of both the side and out of danger.

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 prosecution has not placed any materials at this stage of proceedings to show that on account of incident, the complainant has sustained any grievous injuries and admitted in the hospital. But, on the other hand, the injured are already discharged from the hospital as per submission of both the side. Therefore, considering the facts and circumstances of the case,

including the nature of the offences alleged against the petitioners/accused No.2 to 5 and considering the age factor of the petitioners and also in view of counter case against complainant and his family members, this court is of the considered view that, the petitioners/accused No.2 to 5 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 to 5 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 to 5 are entitled to be released on anticipatory bail and the petition filed by the petitioners/accused No.2 to 5 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.2 to 5 under the provisions of Section 482 of BNSS 2023 is hereby allowed.

The petitioners/accused No.2 to 5 are ordered to be released on anticipatory bail in the event of their

arrest in respect of Cr.No.113/2026 of Hanagal police station for the offences punishable under the provisions of sections 189(2), 191(2), 191(3), 115(2), 118(1), 351(3) and 352 R/w Section 190 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.2 to 5 shall make themselves available for investigation and interrogation by a police officer as and when required.
2. The petitioners/accused No.2 to 5 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 to 5 shall not leave India without prior permission of the court.
4. The petitioners/accused No.2 to 5 shall not commit or repeat similar offence in future days.
5. The petitioners/accused No.2 to 5 shall appear before this court on all the dates of hearing without fail.
6. The petitioners/accused No.2 to 5 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.2 to 5 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 20.06.2026 till filing of final report or till further orders whichever is earlier.

In the event of the petitioners/accused No.2 to 5 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 **6th day of June, 2026.**)*

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