

KAUK010007902026



**IN THE COURT OF ADDL. DISTRICT & SESSIONS
JUDGE - FTSC - 1 U.K. KARWAR (SPECIAL COURT
FOR TRIAL OF CASES FILED UNDER POCSO) ACT
AND C/C II ADDL. DISTRICT & SESSIONS
JUDGE, U.K.KARWAR.**

PRESENT

Smt.Pratibha B.Kulkarni,
B.A. LL.B.(Spl.),
Addl. District & Sessions Judge,
FTSC - 1 U.K., Karwar.
Special Court for trial of cases
filed under POCSO Act and
C/C II Addl. District & Sessions
Judge, U.K.Karwar.

CRIMINAL MISC.NO.202/2026

DATED THIS THE 9th DAY OF JULY 2026

PETITIONERS/: 1. Smt. Hemavati Ganapathi Siddi,
ACCUSED NO.1 to 4: Age: 40 years, Occu: Housewife,
R/o: Hosagadde, Madamane,
Mundaganamane, Sirsi, U.K.

2. Mr. Santosh Ganapati Siddi,
Age: 22 years, Occu: Student,
R/o: Hosagadde, Madamane,
Mundaganamane, Sirsi, U.K.

3. Sri. Manjunath Krisnna Das,
Age: 58 years, Occu:Agriculturist
R/o: Bidralli, Hittalalli,

Ummachagi, Tal: Yellapur, U.K.

4. Tanmay Manjunath Dasa,
Age: 18 years, Occu: Student,
R/o: Bidralli, Hittalalli,
Ummachagi, Tal: Yellapur, U.K.

(Rep. by Sri. V.G.A. Advocate)

Vs.

- RESPONDENTS:** 1. Nagesh Venkati Siddi,
Age: 38 years,
Occu: Agriculturist,
R/o: Hosagadde, Madamane,
Mundaganamane, Post: Sirsi,
U.K.
2. The State of Karnataka
by P.I. Sirsi Rural P.S.
Tal: Sirsi,
Represented by Public
Prosecutor, Karwar.

(By learned Public Prosecutor)

**ORDERS ON BAIL APPLICATION MOVED BY THE
ACCUSED UNDER SECTION 482 OF B.N.S.S.**

The counsel Sri. V.G.A. for the Petitioners moved present petition U/Sec.482 of BNSS seeking to grant anticipatory bail to the petitioners in the event of their arrest in Sirsi Rural Police Station Crime No.51/2026.

2. In the petition it is submitted that based on the complaint, the Sirsi Rural Police have registered a case in their Police Station Crime No.51/2026 against the accused persons/Petitioners for the offences punishable U/Section 108, 115(2), 352, R/w Sec. 3(5) of BNS and U/Section 3(2)(va) of Scheduled Casts and Schedule Tribes (Prevention of Atrocities) Amendment Act 2015. The petitioners are permanent residents of Hosagadde, Madamane, Mundaganamane of Sirsi, Uttara Kannada District, having good respect and strong roots in the society and they have not at all involved in any offences. They are innocents and have falsely been implicated in this case. The petitioners have not committed any offences as alleged. The petitioners are under apprehension of their arrest in the hands of Sirsi Rural Police Officers.

3. It is submitted that the petitioners No.1 and 2 are wife and son of deceased Ganapati Venkati Siddi, petitioners No.3 and 4 are his relatives. The deceased was addicted for consuming liquor. Recently he tortured the petitioner No.1 and 2 and driven out them from his house. Hence petitioners No.1 and 2 took the shelter at the house of petitioner No.1. Petitioner No.3 is husband and petitioner No.4 is son of petitioner

No.1's sister. The contents and allegations of the complaint are false.

4. The petitioners are the law abiding persons. The offences alleged against the petitioners are not punishable with death or life imprisonment. The petitioners are ready and willing to co-operate with trial and they will undertake that they will not hamper or tamper the prosecution witnesses and they will abide by the conditions going to be imposed by the Court. They are ready to give proper surety. Hence, prayed to grant anticipatory bail to the petitioners.

5. The notice on the bail application of the accused /petitioners is issued to the complainant. The complainant appeared before the court and filed his objection to bail application, saying not to release the accused on bail.

6. Learned Public Prosecutor has filed detailed objections to the anticipatory bail application along with report of the Investigation Officer on the grounds that application filed U/Sec.482 of BNSS is not tenable, the grounds made out are not sufficient to enlarge the petitioners on bail, the complaint has been lodged against the accused/petitioners for the offences

punishable U/Section 108, 115(2), 352, R/w Section 3(5) of BNS and U/Section 3(2)(va) of Scheduled Casts and Schedule Tribes (Prevention of Atrocities) Amendment Act 2015.

7. The offences alleged against accused are non bailable in nature and if petitioners are released on bail, they may tamper the prosecution witnesses and materials and they may commit similar offences. Further they may abscond during trial. Accused/ petitioners are not entitled for anticipatory bail. Accordingly, prayed to reject the anticipatory bail application of the petitioners.

8. I have heard learned counsel for the petitioners and learned Public Prosecutor on the anticipatory bail application. I have perused the file and records.

9. The following points that would arise for my consideration and determination:

1. Whether petitioners/accused have made out sufficient grounds for enlarging them on anticipatory bail in the event of their arrest by the Sirsi Rural Police in Crime No.51/2026?

2. What order?

10. My findings 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**:- Admittedly based on the first information of the complainant, a case is registered in Crime No.51/2026 of Sirsi Police Station against the accused/petitioners for the offences punishable U/Section 108, 115(2), 352, R/w Section 3(5) of BNS and U/Section 3(2)(va) of Scheduled Casts and Schedule Tribes (Prevention of Atrocities)Amendment Act 2015. The Petitioners are arraigned as Accused No.1 to 4 in the FIR.

12. The learned counsel for the petitioners argued that though the alleged offences are non bailable, but not punishable with life imprisonment or death penalty and the offences alleged are triable by the Special Court. The false case has been registered against the accused/petitioners. Petitioners have not committed any offences. The learned counsel further argued that there is no previous complaint be the deceased regarding caste atrocity. Petitioners No.1 and 2 are wife and son of deceased, under such circumstances, the ingredients of SC and ST would not apply. The deceased was consuming alcohol, the

complainant is the brother of the deceased. It is stated that death note is secured, which is to proved in accordance with law.

13. The learned counsel further argued that the petitioners are permanent resident of Sirsi Taluka of Uttara Kannada District. There is no chances of absconding by the accused/petitioners. The accused/petitioners are ready to abide by the conditions going to be imposed by the court, they are ready to appear before the Court and accordingly, requested the court to grant anticipatory bail to the petitioners by imposing conditions.

14. The Learned Public Prosecutor argued that complainant filed the complaint before the Sirsi Rural Police station, investigation is yet to be completed and charge-sheet is not filed. Further the learned Public Prosecutor argued that during the panchanama death note was found in the pocket of deceased, is there any illicit relationship between the A-1 and another is to be investigated, complainant has stated about the harassment and ill-treatment said to be given to the deceased. Hence, there is prima facie case. The offences alleged against the accused/petitioners are non-bailable in nature and if petitioners/accused are released on anticipatory bail, they may tamper the

prosecution witnesses and threaten the prosecution witnesses. Hence, prayed to reject the petition.

15. Admittedly the alleged offences against the petitioners are punishable U/Sec. 115(2), 118(1), 351(2), 352, R/w Section 3(5) of BNS and U/Section 3(1)(r), 3(1)(s) of Scheduled Casts and Schedule Tribes (Prevention of Atrocities) Amendment Act 2015, which are not punishable with death or life imprisonment and the alleged offences are triable by the Special Court.

16. Section 18 of the Schedules Caste and Scheduled Tribes (Prevention of Atrocities) Act creates a bar for invoking Sec.438 of Cr.P.C. However a duty is cast on the court to verify the averments in the complaint and find out whether an offence under SC/ST Act has been prima facie made out. In other words, it is required to find out, is there any specific averment in the complaint namely insult or intimidation with intent to humiliate by calling with caste name.

17. In the decision reported in **2012 (8) SCC 795 = 2012 (3) SCC (Cri) 1062 in case of Vilas Pandurang Pawar V/S State of Maharashtra** the Hon'ble Supreme court held that while considering the

application for bail, scope of appreciation of evidence and other material on record is limited. The court is not expected to indulge in critical analysis of the evidence on record. When a provision has been enacted in the Special Act to protect the persons, who belong to Scheduled Castes and Scheduled Tribes and a bar has been imposed in granting bail U/Sec.438 of Cr.P.C, the provision in the Special Act cannot be easily brushed aside by elaborate discussion on the evidence.

18. The Hon'ble Supreme Court, in **Writ Petition (Civil) Nos. 1015 and 1016/2018 in case of Prathvi Raj Chauhan V/S Union of India and others**, decided on 10.02.2020 held that Sec.438 of Cr.P.C (anticipatory bail) does not apply to offences under the SC/ST Act. However, as a limited exception, courts can grant anticipatory bail or quash complaints only if the complaint fails to disclose prima facie case of an atrocity.

19. On perusal of the complaint, it could be seen that deceased married petitioner No.1 about 25 years, she belongs to other caste, they have got two children. Petitioner No.2 is one of the sons born to deceased and petitioner No.1. It is alleged that petitioners have

tortured, abused and assaulted the deceased. Therefore, he committed suicide. Hence the petitioners are abettors. But there is no recital about caste atrocities. Therefore prima facie it appears the ingredients of caste atrocities are not forthcoming.

20. It is settled law that while entertaining the bail application it is not necessary to see the merits of the case. The court is only required to see is whether accused/petitioners can be secured during investigation or trial if released on bail and are there any chances of tampering the evidence. The petitioners are ready to furnish surety to the satisfaction of the court and ready to obey the terms and conditions going to be imposed by the court. Therefore, I am of the opinion that accused/petitioners could be released on anticipatory bail by imposing stringent conditions, so that apprehension of the prosecution will not remain. Hence, the bail petition filed by the accused/petitioners U/Sec.482 of B.N.S.S. deserves to be allowed on conditions. Accordingly, I answer Point No.1 in the Affirmative.

21. **POINT NO.2:-** In view of my findings to point No.1 and reasons stated therein, I proceed to pass the following:

ORDER

The anticipatory bail petition filed by the petitioners/accused No.1 to 4 U/Sec.482 of B.N.S.S. is allowed on the following conditions:

1. In the event of arrest of petitioners/accused No.1 to 4 in Sirsi Rural Police Station in Crime No.51/2026, the concerned police are directed to release the accused on bail on execution of bail bond of Rs. 1,00,000/- each with one surety for the like sum.
2. The petitioners/accused No.1 to 4 shall not tamper the prosecution witnesses in any manner.
3. The petitioners/accused No.1 to 4 shall co-operate with the Investigation Officer by appearing before him as and when asked to appear.
4. The petitioners/accused No.1 to 4 shall not involve in any other criminal case of similar nature or any other.

5. The petitioners/accused No.1 to 4 shall not leave the jurisdiction of the court without the permission of the court.

6. In case of violation of any of these conditions, the prosecution is at liberty to seek for cancellation of the bail of the petitioners/accused No.1 to 4.

(Dictated to the Stenographer directly on system, corrected, signed and then pronounced in the open court on this the 9th day of July 2026.)

(Pratibha B.Kulkarni)

Addl. District & Sessions Judge,
FTSC-1 U.K, Karwar
(Special Court for trial of cases
filed under POCSO Act).
C/C II Addl. District & Sessions
Judge, U.K.Karwar.

