

KAVN010013792026



**IN THE COURT OF THE ADDL. DISTRICT & SESSIONS JUDGE,
VIJAYANAGARA DISTRICT, HOSAPETE**

PRESENT: SRI D.P.KUMARA SWAMY,

B.Com.,LL.M.,
Addl. District & Sessions Judge,
Vijayanagara District, Hosapete

DATED THIS THE **7th** DAY OF **MARCH, 2026.**

Crl. Misc. No.140/2026

- Petitioners :** 1. Subhash @ Gollarahalli Subhash
(accused S/o Gollarahalli Prabhugowda,
Nos.1 to 5) aged about 44 years,
R/o 1/16, Narayanaswamy Temple Oni,
Vadakanahalli Village, Hadagalli Tq.,
Vijayanagara District.
2. K.Chandrashekar S/o K.Panchakshari Gouda,
aged about 43 years,
R/o #31/1, 1st Ward,
Near Anjineya Temple,
Vadakanahalli Village, Hadagalli Tq.,
Vijayanagara District.
3. Virupannavara Prakash @ Prakash,
S/o Veerupaksha Gowda,
aged about 54 years,
R/o Near Anjineya Temple,
Vadakanahalli Village, Hadagalli Tq.,
Vijayanagara District.
4. Kotresha @ Gollarahalli Kotresha,
S/o Gllarahalli Prabhu Gowda,
aged about 46 years,
R/o 1/16, Reddara Oni,
Vadakanahalli Village, Hadagalli Tq.,
Vijayanagara District.

5. Barikara Kotresha @ B.M.Kotresha,
S/ B.M.Gangamma,
aged about 45 years,
R/o Sogi Village, Hadagalli Tq.,
Vijayanagara District.

(By Sri. Angadi Manjunatha - Advocate)

V/s

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| Respondents : | 1. The State,
represented by the P.S.I.,
Ittigi Police Station.
Hadagalli Tq., Vijayanagara District. |
| | 2. Bagali Jagadish
S/o Late Ningappa,
aged about 34 years,
R/o Varakanahalli Village,
Hadagalli Tq., Vijayanagara District. |

(By Learned Public Prosecutor)

ORDERS ON BAIL PETITION

Present petition is filed by the petitioners/accused Nos.1 to 5 in Ittigi P.S., Crime No.19/2026 under Section 482 of BNSS for his enlargement on anticipatory bail, in the event of their arrest in the said crime.

2. The petitioners/accused Nos.1 to 5 have contended that, they are innocents of the alleged offences. They are the law abiding citizens. They have not committed any of the offences, as alleged against them. The ingredients of offences punishable under Sections 3(1)(r), 3(1)(s), 3(2)(v-a) and 3(1)(2)(i) of SC and ST (Prevention

of Atrocities) Act 1989 (for short, '**1989 Act**') and Sections 118(2), 115(2), 74, 354, 126(2) 351(2) read with Section 190 of BNS, 2023, do not get attracted to the allegations made against them. A false case has been foisted against them, to harass them. The First Information Statement (FIS) was lodged by the first informant against the petitioners with an ulterior motive and with a malafide intention before the respondent police. Petitioners are resident of the address shown in the petition and they are having both movable and immovable properties. The respondent police are making hectic efforts to arrest the petitioners. They are ready to abide by all the terms and conditions imposed by this Court. They are ready to offer surety to the satisfaction of the Court. Hence, this petition may be allowed and grant anticipatory bail.

3. Notice of the petition was taken by the Learned Public Prosecutor and the Learned Public Prosecutor has filed his objections to the bail petition and stated to the following effect. In the objection statement, the story of the prosecution case is reiterated. Thereafter it is stated that, in this case investigation is not yet completed. If they are enlarged on bail, they may repeat the same and similar offences; they will tamper the prosecution witnesses and may flee from justice, thereby leading to protraction of smooth investigation process and trial. Hence, prayed to reject the bail petition.

4. Heard the arguments of the Learned Counsel for the petitioner; and the Learned Public Prosecutor.

5. The points that arise for my consideration are:

1. Whether the petitioners/accused Nos.1 to 5 are entitled for grant of anticipatory bail under Section 482 of BNS ?
2. What order?

6. My findings for the above points are as under for the following reasons:

Point No.1: In the negative;

Point No.2: As per final orders:

REASONS

7. Point No.1 : I have perused the averments made in the bail petition, F.I.R., FIS, the objections filed by the Learned Public Prosecutor, and the materials on record. I have borne in mind the anxious submissions made by the learned advocate for the petitioner/accused No.1 and Learned Public Prosecutor.

8. The allegation against the petitioner is that the petitioner has committed the alleged offences punishable under Section 3(1)(r), 3(1)(s), 3(2)(v-a) and 3(1)(2)(i) of SC and ST (Prevention of Atrocities) Act 1989 and Sections 118(2), 115(2), 74, 354, 126(2) 351(2) read with Section 190 of BNS, 2023. As the petitioner is claiming anticipatory bail, in my considered view, it is not necessary for me to record factual matrix.

9. In a recent judgment of Hon'ble Supreme Court in Criminal Appeal No.2622/2024 in the matter of Shajan Skaria V/s The State of Kerala and another, DD on 23.08.2024, at para No.49, the Hon'ble Supreme Court has ruled thus:

“49. In our opinion, the aforesaid is the only test that the Court should apply, when an accused prays for anticipatory bail in connection with any offence alleged to have been committed under the provisions of the Act, 1989. In a given case, an accused may argue that although the allegations levelled in the FIR or the complaint do disclose the commission of an offence under the Act, 1989, yet the FIR or the complaint being palpably false on account of political or private vendetta, the Court should consider the plea for grant of anticipatory bail despite the specific bar of Section 18 of the Act, 1989. However, if the accused puts forward the case of malicious prosecution on account of political or private vendetta then **the same can be considered only by the High Court** in exercise of its inherent powers under Section 482 of the Code or in exercise of its extraordinary jurisdiction under Article 226 of the Constitution. However, powers under Section 438 of the CrPC cannot be exercised once the contents of the complaint/FIR disclose a prima facie case. In other words, if all the ingredients necessary for constituting the offence are borne out from the complaint, then the remedy of anticipatory bail becomes unavailable to the accused.”

(bold and underline is mine)

10. In view of the law declared by the Hon'ble Supreme Court, it is only the Hon'ble High Court which can consider the question of granting of anticipatory bail. Section 18 of 1989 Act bars the jurisdiction of this Court to grant anticipatory bail. Hence, without considering the merits of the claim of the petitioner (in view of the bar of jurisdiction), point No.1 is held in the negative.

11. POINT No.2: Hence, the following:

ORDER

The Petition filed by the petitioners/accused Nos.1 to 5 under Section 482 of BNSS is hereby rejected.

(Return copy of C.D. to the learned Public Prosecutor)

(Dictated to the stenographer, typed and computerized by him, corrected and signed by me and then pronounced in the open Court on this the **7th** day of **MARCH, 2026**)

**(D.P.KUMARA SWAMY),
ADDL. DISTRICT & SESSIONS JUDGE,
VIJAYANAGARA DISTRICT, HOSAPETE.**

(Order pronounced in the open Court
vide separate order)

ORDER

The Petition filed by the
petitioners/accused Nos.1 to 5 under
Section 482 of BNS is hereby
rejected.

(Return copy of C.D. to the
learned Public Prosecutor)

**(D.P.KUMARA SWAMY),
ADDL. DISTRICT & SESSIONS JUDGE,
VIJAYANAGARA DISTRICT, HOSAPETE.**

