



HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 9TH DAY OF APRIL, 2026
BEFORE
THE HON'BLE MR. JUSTICE M.G.S. KAMAL
CRIMINAL APPEAL NO. 454 OF 2026 (U/S 14(A) (2))

BETWEEN:

1. NALINA KUMAR VT
S/O VIRBADRAPPA GOWDA
AGED ABOUT 33 YEARS
TAVAREKOPPA, MAVALI
SORABA TALUK, SHIVAMOGGA
KARNATAKA - 577 429.
2. NAVEEN KUMAR P
S/O PARAMESHWARAGOWDA
AGED ABOUT 29 YEARS
GUDDEKOPPA, MAVALI
SORABA TALUK, SHIVAMOGGA
KARNATAKA - 577 429.
3. SANDEEPA P
S/O PUTTAPPA GOWDA
AGED ABOUT 35 YEARS
YALAVALLI, MAVALI, SORABA TALUK
SHIVAMOGGA, KARNATAKA - 577 429.
4. PALAKSHAPPA
S/O Y. VEERBASAPPA
AGED ABOUT 47 YEARS
YALAVALLI, MAVALI, SORABA TALUK
SHIVAMOGGA, KARNATAKA - 577 429.
5. VEERENDRA Y
S/O VEERABASAPPA GOUDA Y
AGED ABOUT 43 YEARS
NO.55, NEAR GANAPATHI TEMPLE
YALAVALLI, SHIMOGA, MAVALI
KARNATAKA - 577 429.
6. SHIVAKUMAR K P
S/O PARAMESHWARA GOWDA





AGED ABOUT 25 YEARS
YALAVALLI, YALAVALLI, MAVALI
SHIMOGA, KARNATAKA - 577 429.

...APPELLANTS

(BY SRI K. DIWAKARA, SR. COUNSEL FOR
SRI HITESH GOWDA B.J, ADV.)

AND:

1. STATE OF KARNATAKA
BY SORABA PS
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA.
2. MAHENDRA
S/O CHANDRAPPA
AGE UNKNOWN
R/O. YALAVALLI VILLAGE
SORABA TALUK, SHIVAMOGGA
KARNATAKA - 577 427.

...RESPONDENTS

(BY SRI VINAY MAHADEVAIAH, HCGP FOR R-1;
R-2 IS SERVED AND UNREPRESENTED)

THIS CRL.A IS FILED U/S 14(A)(2) OF SC/ST (POA) ACT, 2015 PRAYING TO ENLARGE THE APPELLANTS ON BAIL IN CR.NO.26/2026 OF SORABA P.S., PENDING ON THE FILE OF THE HONBLE II ADDL. DISTRICT AND SESSIONS JUDGE, SHIMOGA FOR THE ALLEGED O/P/U/S 352, 133, 115(2), 118(1), 351(2), 3(5) OF THE BNS 2023 R/W SEC. 3(1)(r)(s) AND 3(2)(va) OF SC AND ST (POA) ACT.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL



ORAL JUDGMENT

This appeal is by accused Nos.1 to 6/appellants against the order dated 28.02.2026 passed in Crl. Misc. No.161/2026 on the file of the II Additional District and Sessions Judge, Shivamogga, by which the petition filed by the appellants under Section 482 of BNSS 2023, seeking anticipatory bail in Crime No.26/2026 registered in Soraba Police Station, Shivamogga, for the offences punishable under Sections 352, 133, 115 (2), 118(1), 351(1) read with Section 3(5) of BNSS 2023 and Sections 3(1)(r) and 3(2)(v-a) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [for short, '*the Act*'] has been rejected.

2. Sri C Diwakara, the learned Senior Counsel appearing for the appellants, taking this Court to the record, submits that the present complaint is in continuation of series of criminal and civil litigations, which have been filed for and against the parties arising out of property dispute. He submits that the appellants herein are the descendants of one Puttappa Gouda, who was owning vast tracts of agricultural lands in Yelavalli, Maradi and Thavarekoppa villages which were partitioned amongst three branches of his descendants. The



appellants herein belonged to the first branch of Puttappa Gouda. The dispute regarding the family properties spilled and took turn into criminal disputes by another branch of said Puttappa Gouda led by one G P Veerasha Gouda filing criminal case in Crime No.1/2026 on 23.12.2025 against forty members of the family belonging to the branch of one Palakshappa Gouda for the offences punishable under Sections 189[2], 191[2], 191[3], 329[4], 115[2], 352, 351[2] and 190 of the BNSS, 2023. As a counter, appellants were also constrained to file a complaint on the very same day for the similar offences which was registered under Crime No.3/2026 against seventeen persons including the complainant in Crime No.1/2026.

3. The learned Senior counsel draws attention of this Court to contents of complaint registered in Crime No. 1/2026 to point out that the complainant in the said complaint had mentioned names of certain Halappa, Mahendra, Puttaraja Gouda of Yelavalli village, who have purportedly intervened and prevented situation. He submits that the present complaint subject matter of this appeal has been engineered through Mahendra, whose name finds mention in Crime No.1/2026. He submits, on instructions, that said Mahendra is working as a



Tractor driver of Sureshappa Gouda family. He submits there is a suit in O.S. No.11/2024 filed by one Rathamma and Eramma of Palakshappa Gouda's branch before the Senior Civil Judge and JMFC, Soraba against G P Mallikarjuna, G P Veerasha Gouda, Sureshappa Gouda, the opposite group, for relief of declaration and injunction in respect of some of the properties which are subject matter of the dispute. That defendant No.3 in the said suit is Sureshappa Gouda, his son Shivaraj under whom the complainant in the present case Mahendra is working as a driver.

4. With the above background, he reads into the complaint which is filed by said Mahendra alleging that on 08.02.2026 at about 04.00 p.m. when said Mahendra was proceeding near Mavalli Circle towards Channapura, the appellants herein had intercepted, assaulted and abused him in the name of his caste on the ground of he being a witness to the mahazar, to the scene of offence, which is subject matter of the case in Crime No.1/2026. He also points out to the name of Shivaraj, son of Sureshappa Gouda, having intervened and protected said Mahendra. Thus he draws link between the cases in Crime Nos.1/2026, 3/2026 and the suit in OS No. 11/2024



and the parties involved therein and insists that it is only to overreach with ulterior motive and in misuse of the process of law, the present complaint is lodged.

5. He further submits that a perusal of the contents of the complaint would not even make out a case falling under Section 3[1][s] of the Act. He submits that the so-called public view is referable only to Shivaraj, son of Sureshappa Gouda and none else. Therefore, the same would not fall within the vigor of the said section. He relies upon the Judgment of the Apex Court in the case of '**PRATHVI RAJ CHAUHAN V. UNION OF INDIA AND OTHERS**' reported in **[2020] 4 SCC 727** in support of his submission. Hence, he seeks for allowing of the appeal.

6. Though the notice was issued to the de facto complainant and opportunity was given for his appearance, there is neither any appearance nor representation.

7. The learned High Court Government Pleader, opposing the appeal, submitted that notwithstanding the cases and the counter cases between the parties, the present complaint discloses prima facie commission of offence falling within the provisions of sections 3[1][r] and 3[1][s] of the Act



and since there is express bar under Section 18 of the Act, appellant cannot be favoured by grant of anticipatory bail and seeks for rejection.

8. Heard the learned Senior counsel for the appellants and learned High Court Government Pleader and perused the records.

9. The Apex Court in the case of '**KIRAN V. RAJKUMAR JIVRAN JAIN AND ANOTHER**' reported in **2025 LiveLaw [SC] 869** at paragraphs 6, 6.1, 6.2 has held thus:

"6. In light of the parameters in relation to the applicability of Section 18 of the Act emanating from afore-discussed various decisions of this Court, the proposition could be summarised that as the provision of Section 18 of the Scheduled Caste and Scheduled Tribes, Act, 1989 with express language excludes the applicability of Section 438, Cr.PC, it creates a bar against grant of anticipatory bail in absolute terms in relations to the arrest of a person who faces specific accusations of having committed the offence under the Scheduled Caste and Scheduled Tribe Act. The benefit of anticipatory bail for such an accused is taken off.

6.1 The absolute nature of bar, however, could be read and has to be applied with a rider. In a given case where on the face of it the offence under Section 3 of the Act is found to have not been made out and that the accusations relating to the commission of such offence are devoid of prima facie merits, the Court has a room to exercise the discretion to grant anticipatory bail to the accused under Section 438 of the Code.

6.2 Non-making of prima facie case about the commission of offence is perceived to be such a situation where the Court can arrive at such a



conclusion in the first blush itself or by way of the first impression upon very reading of the averments in the FIR. The contents and the allegations in the FIR would be decisive in this regard. Furthermore, in reaching a conclusion as to whether a prima facie offence is made out or not, it would not be permissible for the Court to travel into the evidentiary realm or to consider other materials, nor the Court could advert to conduct a mini trial."

10. In the case of '**DR. ANAND RAI V. STATE OF MADHYA PRADESH AND ANOTHER**' reported in **[2026] 3 SCR 45**, the Apex Court in Paragraph 19 has held as under:

"19. A different discipline governs cases arising at the stage of discharge, framing of charge, or prima facie satisfaction. The Court has consistently held that at this stage the Court is not concerned with proof of guilt or the sufficiency of evidence for conviction. In State of Bihar v. Ramesh Singh (1977) 4 SCC 39 and later in Union of India v. Prafulla Kumar Samal (1979) 3 SCC 4, the Court clarified that the test is whether the material on record, taken at face value, discloses the essential ingredients of the alleged offence and gives rise to a strong or grave suspicion against the accused. The Court is expressly cautioned against conducting a roving inquiry or weighing the evidence as if at trial. When these generally applicable principles are applied to an appeal under Section 14-A of the SC/ST Act arising from a threshold order, the High Court's role, though appellate in nature, stands circumscribed by the limits governing discharge. The High Court may examine whether the allegations disclose the basic statutory ingredients of the offence under the Act, including whether the alleged act was committed on account of the victim's caste and whether other foundational requirements are satisfied. Where these ingredients are conspicuously absent, interference is justified,



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as continuation of proceedings would amount to an abuse of the process of law. This form of scrutiny does not amount to appreciation of the material but is an exercise in legal evaluation of the allegations as they stand.

At the same time, even while exercising first appellate jurisdiction, the High Court cannot, at the discharge or prima facie stage, adjudicate upon disputed questions of fact, assess the reliability of witnesses, or compare the prosecution case with the defence version. To do so would collapse the distinction between trial and threshold scrutiny and would result in a premature determination of guilt or innocence. The Supreme Court has repeatedly cautioned that defences available to the accused are matters for trial and cannot ordinarily form the basis for discharge unless the material relied upon is of sterling and unimpeachable character.

Thus, the appellate power under Section 14-A of the SC/ST Act must be exercised in harmony with the broader framework of criminal procedure. While the High Court is duty-bound, as a first appellate Court, to independently apply its mind and correct errors committed by the Special Court, it must remain conscious of the stage of the proceedings and the corresponding limits of judicial scrutiny. This calibrated approach ensures that the protective object of the SC/ST Act is preserved, while simultaneously safeguarding against mechanical application of its provisions in cases where the statutory ingredients are not even prima facie disclosed."

11. Thus, if a case lacks prima facie material, absolute bar under Section 18 of the Act would not come in the way in the Court exercising the discretion.



12. The Apex Court in the case of '**SOHANVIR alias SOHANVIR DHAMA AND OTHERS V. STATE OF U.P. AND ANOTHER'** reported in **2025 SCC OnLine SC 2730** at paragraphs 9 and 10 has held as under:

"9. In order to examine this contention, it is necessary to refer to Section 3(1)(s) of the SC/ST Act, which reads as under:

"3. Punishments for offences of atrocities. — (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;"

10. The expression "any place within public view" has been interpreted by this Court in numerous decisions, most recently in Karuppudayar v. State represented by the Deputy Superintendent of Police, Lalgudi, Trichy 2025 INSC 132. Relying on Hitesh Verma v. State of Uttarakhand (2020) 10 SCC 710, this Court reaffirmed that:

"11. It could thus be seen that, to be a place 'within public view', the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view."



13. Read in the light of the aforesaid position of law, the complaint dated 09.02.2026 filed by said Mahendra though contained allegations of appellants herein subjecting him to physical assault and abuse, would indicate that it was only Shivaraj, son of Sureshappa Gouda, was being present near the scene of alleged offence and that the said person had escorted him to the hospital for treatment. The submission made by the learned Senior Counsel with regard to two branches of the family being descendants of Puttappa Gouda embroiled in civil and criminal litigations is evident from the contents of cases in Crime No.1/2026 and Crime No.3/2026, details of which are produced along with a memo dated 09.04.2026.

14. The name of the complainant herein finds mention in the complaint subject matter of case in Crime No.1/2026 which is initiated by G P Veerasha Gouda who is the defendant in OS No.11/2024 filed by Rathamma and Eramma who belong to the branch of appellants herein. Shivaraj, son of Sureshappa Gouda, who purportedly witnessed the physical assault and abuse hurled at complainant- Mahendra by the appellants herein in the name of his caste, is none other than the son of defendant No.3 in the



said suit in OS No.11/2024. It is submitted that said Mahendra-complainant is working as a driver under said Shivaraj.

15. In the aforesaid fact situation of the matter, which is evident from the contents of the complaints and the plaint in OS No.11/2024 and in the absence of any prima facie allegations/averments in the complaint of the said incident being witnessed by members of general public and in the light of reference only to Shivaraj, son of Sureshappa Gouda, there is considerable force in the submission made by the learned Senior Counsel that the present complaint is filed in furtherance to the earlier complaints filed by the parties.

16. The appellants are stated to be the local residents and agriculturalists. The dispute between the parties is with regard to the family properties. They all trace common ancestor. There is no criminal antecedents.

17. The exercise of discretionary power, despite there being bar under Section 18 of the Act, as indicated by the Apex Court in the aforesaid Judgment, can be exercised in the instant case in view of the peculiar fact situation of the matter.



18. Accordingly, the following:

ORDER

1. Criminal appeal is ***allowed***;
2. The impugned order dated 28.02.2026 passed in Crl. Misc. No.161/2026 by the II Additional District and Sessions Judge, Shivamogga, is set aside.
3. The accused/appellants are granted anticipatory bail in the event of their arrest for the offences punishable under Sections 352, 133, 115 (2), 118(1), 351(1) read with Section 3(5) of BNSS 2023 and Sections 3(1)(r) and 3(2)(v-a) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 subject to the following conditions;
 - (a) Accused/Appellants shall execute personal bond for a sum of Rs.1,00,000/- each with two sureties for the likesum each, to the satisfaction of the jurisdictional Court;
 - (b) accused/appellants shall obtain regular bail from the jurisdictional court within ten days of receipt of a certified copy of this order.



(c) Accused/Appellants shall appear before the jurisdictional police once in every fifteen days between 10.00 a.m. and 6.00 p.m. till the charge sheet is filed or as and when requisitioned by the Investigating Officer.

(d) Accused/Appellants shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts their appearance for valid reasons.

(e) Accused/Appellants shall not directly or indirectly threaten or tamper with the prosecution witnesses;

(f) Accused/Appellants shall not involve in similar offences in future;

(g) Accused/Appellants shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against them is disposed off.

**Sd/-
(M.G.S. KAMAL)
JUDGE**

AN/-