

KABC010304022026



**IN THE COURT OF LXXXI ADDL. CITY CIVIL AND
SESSIONS JUDGE, BENGALURU (CCH-82)**

:PRESENT:

**Sri. Shivaprasad K.B., B.Com., LL.B.,
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)**
(Special Court exclusively to deal with criminal cases
related to elected former and sitting MPs/MLAs in the
State of Karnataka)

Dated this the 8th day of October, 2026

Crl.Misc. No.9895/2026

PETITIONER :

**Sri. Prathap Simha
S/o B.E.Gopal Gowda,
Aged about 50 years,
Occupation:
Politician/Former Member of
Parliament,
Residing at No.744, 8th Cross,
4th Stage, 1st Phase,
Vijayanagar,
Mysuru – 570 017.
(Accused No.1)**

**(By Sri. Sudarshan Suresh,
Advocate for Petitioner)**

V/s

**RESPONDENTS: 1. State of Karnataka
By the Station House Officer,**

T.Narasipura Police Station,
Mysuru District.
Represented by the learned
Special Public Prosecutor.

2. **Sri.Madhu K.T.,**
S/o Tammaiah,
Aged about 35 years,
President,
Dr.B.R.Ambedkar
Kshemabhivruddhi Kreedaa
Kalaa Sangha ®,
Kaiyamballi village, Sosale
Hobli, T.Narasipura Taluk,
Mysuru District – 571 120.

(De-facto complainant)

(Respondent No.1 by learned
Public Prosecutor.
Respondent No.2 by
Sri.Mahesh.M., Advocate)

ORDER

The petitioner has filed this petition under Sec.482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (in Short 'BNSS'), seeking for his release in the event of his arrest for the offences punishable under Sec.352 and 356 of BNS, 2023 and Sec.3(1)(r) and Sec.3(1)(u) of SC/ST (POA)

Act, 1989 in Crime No.333/2026 registered by T.Narasipura Police Station.

2. Facts leading this petition are that, one Madhu K.T. S/o Tammaiah, Adi Karnataka Caste, the President of Dr.B.R.Ambedkar Kshemabhivruddhi Kreedha Kala Sangha(R), Kaiyamballi village, T.Narasipura Taluk, Mysore, lodged a complaint on 22.09.2026 at 5.00 p.m., against the petitioner and organizers of Lord Ganesh Idol Immersion at T.Narasipura Town alleging that on 18.09.2026 in front of T.Narasipura Police Station, Mysore District, during Lord Ganesha idol immersion procession, the petitioner made derogatory remarks against the scheduled caste community in the presence of general public and media. Further, he alleged that the petitioner, directing towards the workers of scheduled caste abused as ನೀವು ಕೇವಲ ನೀಲಿ ಶಾಲು ಹೊದ್ದು ಉದರನಿಮಿತ್ತವಾಗಿ ಬಂದು ನಿಲ್ಲುತ್ತೀರಿ, ನಿಮಗೆ ಅಂಬೇಡ್ಕರ್ ಅವರ ಬಗ್ಗೆ ಏನೂ ಗೊತ್ತಿಲ್ಲ, ಮೊದಲು ಅಂಬೇಡ್ಕರ್ ಓದಿ. Further, he claimed that, by such utterances, the petitioner insulted the thoughts of Dr.B.R.Ambedkar and

'Blue Shawl' a cultural identity of scheduled caste persons and thereby, the petitioner infringed their fundamental right to life under Article 21 of Indian Constitution. Further, he alleged that the petitioner falsely asserted that the office bearers of Dalit Organization who fights for the rights of oppressed, are fighting for money or for their personal gain. He further alleged that the petitioner mentioned the caste name of Police Officer Dhananjay and uttered that ನಿಮ್ಮ ಜಾತಿಯ ಅಧಿಕಾರಿ ಎಂಬ ಒಂದೇ ಕಾರಣಕ್ಕೆ ನೀವು ಅವರನ್ನು ಬೆಂಬಲಿಸುತ್ತೀರಿ ಮತ್ತು ರಕ್ಷಣೆಗೆ ನಿಲ್ಲುತ್ತೀರಿ ಆತ ಒಬ್ಬ ಕ್ಷುಲ್ಲಕ ಕಳಪೆ ವ್ಯಕ್ತಿತ್ವದ ಇನ್‌ಸೆಕ್ಟರ್ and further abused touching his caste and caused criminal intimidation. He alleged that the petitioner abused Dhananjay touching his caste, threatened him and degraded and insulted him. Thereby, he attempted to provoke the castes and create disharmony, ill-will and enmity between the castes, and such acts of the petitioner is violative of Article 15 of Indian Constitution. He further alleged that the petitioner and the organizers of procession of Lord

Ganesha idol immersion, hatched a plan to insult the scheduled caste persons in the presence of general public and spoil the peace and harmony in the town and the incident is pre-planned.

3. Pursuant to the said complaint, FIR in Crime No.333/2026 came to be registered for the offences punishable under Sec.352 and 356 of BNS, 2023 and Sec.3(1)(r) and Sec.3(1)(u) of SC/ST (POA) Act, 1989 at T.Narasipura Police Station.

4. The record placed appears that SHO of T.Narasipura Police Station submitted the requisition to drop the provision Sec.356 of BNS, which added inadvertently.

5. Apprehending arrest, the petitioner before this Court by filing the anticipatory bail petition, contended that the ingredients of Sec.3(1)(r) and Sec.3(1)(u) of SC/ST (POA) Act are not made out from the complaint. The complaint does not indicate any allegations against

the respondent No.2. He further contended that the complaint averment indicates a general remarks against the unnamed group which does not cover Sec.3(1)(r) of SC/ST (POA) Act. Further, the complaint does not show any injury to the complainant/ respondent No.2 and any identified person was humiliated. He also further contended that the words uttered are political criticisms and not caste based insult; and at the most, the words uttered would be criticism on the conduct of an organization. The organization is not a member of scheduled caste. Further, the complaint averment does not show any caste name, slur or castiest remarks against the complainant. He also contended that the alleged first remark attributes a motive to the workers and it does not insult the Police Officer by reason of his caste. Further, the Police Officer himself has not complained about the insult. Mere mentioning of caste would not satisfy Sec.3(1)(r) of SC/ST (POA) Act. Further he contended that the complaint does not show the caste

of petitioner. Further the complaint does not indicate the incitement against scheduled caste as community.

6. He further contended that the complaint lodged with delay of four days, which shows the deliberation and consultation, not lodged for spontaneous grievance. The time of dispatch of the FIR, general diary entry and time of registration of FIR would not reconcile each other. The alleged offences punishable under Sec.352 and Sec.356 of BNS are bailable in nature. He submitted that the entire public speech of petitioner recorded by the media, and complainant also produced the alleged video in a CD and nothing remained to recover from the petitioner. If the voice sample is required, the petitioner consents for the collection of the voice sample also. He also submitted that the petitioner is a public figure and he is permanent resident of Mysore, has deep roots in the society and therefore there is no likelihood of absconding or fleeing from the justice. The petitioner undertake to abide by any

conditions that may be imposed by the Court. Thus, he prayed to allow the bail petition.

7. The learned Public Prosecutor put his appearance for respondent No.1 and submitted detailed objection statement reiterating the case of the prosecution. Further, it is contended that Investigating officer issued notice to the petitioner under Sec.35(3) of Cr.P.C. and he seized the DVD containing the speech of petitioner, produced by the respondent No.2/de-facto complainant. The IO has to collect the evidences. Further submitted that the petitioner is politically and economically influential person and if he is enlarged on anticipatory bail, he may tamper the prosecution evidences or threaten the witnesses. It is further submitted that the petitioner has not urged proper grounds for the relief of anticipatory bail. Hence, it is prayed to dismiss the petition.

8. Pursuant to the notice, the respondent No.2 de-facto complainant appeared through his counsel and submitted the detailed objection statement resisting the contentions of the petitioner. He submitted that the petitioner publicly insulted the Dalith community, degraded the blue shawl which serves as a historical identity for Dalit organizations and wearing the blue shawl for alternative motives without understanding the teachings of Dr.B.R.Ambedkar. Further, he submitted that the petitioner also targeted the Police Inspector named Sri.Dhananjay with caste related remarks within the public view. Further, he narrated the objects of the SC/ST (POA) Act and contended that Sec.18 of the said Act creates a bar to entertain the anticipatory bail petition for the offence under SC/ST (POA) Act. He submitted that on the face of records, it appears prima-facie case for the alleged offence under SC/ST (POA) Act. The petitioner knew very well that the caste persons of SC/ST organized under the name and style of Dalita

Sangharsha Samithi and the said organization has the faith over blue shawl. Therefore, it appears that the petitioner intentionally insulted the community of SC/ST by uttering derogatory words within the public view. He also submitted that the alleged incident took place at the main road at T.Narasipura Town, in the presence of media persons and several persons, and the petitioner targeted the Dalit community organization to humiliate them and degrading the blue shawls. He submitted that the insult to Dalit community and degrading the blue shawl at the public place are within the public view. Further, he submitted that the petitioner insulted the Police Officer as he is a sub-standard Inspector at the public place, and he also insulted and humiliated the members of scheduled caste by derogatory statements. Thus, the essential ingredients of Sec.3(1)(r) of SC/ST (POA) Act is made out in the case. Further the petitioner submitted that he attempted to promote the feelings of enmity, hatred or ill-will against the members of

scheduled caste or schedule tribe, and the allegations made by the petitioner clearly attracted the basic elements of Sec.3(1)(u) of SC/ST (POA) Act.

9. Further, the respondent No.2 submitted that the petitioner is a former Member of Parliament and a famous Journalist. He is the member of non-SC/ST. He also submitted that the petitioner knows the identity of Dalit Sangharsha Samithi and when the offence is committed by the petitioner knowingly, he is not entitled for anticipatory bail. Further, he submitted that Sec.8 of SC/ST (POA) Act deals with the presumption as to the offences under the said Act and the petitioner is having personal knowledge of Dalit community and blue shawl, abused and the court shall presume that petitioner aware of the caste and identity under the name and style of 'DSS', unless the contrary is proved. Further, he submitted that the petitioner promoted the bad feelings and ill-will against the members of Dalit community and they protested against the petitioner across the State of

Karnataka. So also, several Dalit organizations protested in the presence of media at public place, before the office of Deputy Commissioner's at various Districts and presented the memorandum. The derogatory statement of the petitioner created a enmity in the society, which disturbed public peace and tranquility, and it also created violence, clashes, fights or riots between different religious castes and communities. The derogatory statement of the petitioner frequently appears in the news reports, political discussions and there is likelihood of communal wars in the society, which may damage the public properties and impact women and children. The petitioner committed heinous crime under the Special Act. Further, he submitted that the petitioner is influential person and there is chance of influencing the witnesses, destroying the digital evidences, alteration of physical evidences. He also submitted that 22 cases registered against the petitioner and he has criminal antecedents. Therefore, enlarging the petitioner on

anticipatory bail would be danger to the public peace and tranquility. The petitioner preferred CrI.Petition No.14769/2026 before the Hon'ble High Court of Karnataka to quash the FIR. Thus, the petitioner is not entitled for anticipatory bail and the petition liable to be dismissed.

10. Heard learned counsel for the petitioner, learned Public Prosecutor and learned Counsel for respondent No.2. The learned Public Prosecutor made available the C.D. of the case, Report of Investigating Officer and other documents, copies of seizure mahazar and PF with two videographs in a Compact Disc.

11. The learned counsel for the respondent No.2 furnished the complaint dated 30.09.2026, copies of photographs uploaded in the social media and comments thereon. He also furnished the 10 daily newspapers. The learned counsel for the petitioner relied upon the following decisions;

- 2025 SCC Online SC 1886 (Kiran Vs. Rajkumar Jeevaraj Jain and another);
- (2020) 10 SCC 710 (Hitesh Verma Vs. State of Uttarakhand and another);
- 2026 SCC Online SC 799 (Keshav Mahto alias Keshawa Kumar Mahto Vs. State of Bihar and another);
- (2014)8 SCC 273 (Arnesh Kumar Vs. State of Bihar and another);
- Judgment dated 18.09.2026 passed in Crl.petition No.101720 of 2026 by Hon'ble High Court of Karnataka;
- Judgment dated 08.08.2023 passed in Crl.Apl.No.2340 of 2023 by Hon'ble Supreme Court of India;
- Reportable order dated 23.01.2026 passed in Crl.Petition No.7806/2025 by Hon'ble High Court of Karnataka.

The learned counsel for the respondent No.2 relied upon the following authorities;

- Reportable judgment in SLP (Crl.) No.6432 of 2012 in Vilas Pandurang Pawar and another Vs. State of Maharashtra decided on 10.02.2012;
- Judgment in Crl.Apl.No.595/2013 (SLP [Crl.] No.8490 of 2012) in

Shakuntla Devi Vs. Baljinder Singh
decided on 15.04.2013

- Reportable judgment in Crl.No.314 of 2014 (Arising out of SLP [Crl.] No.8558 of 2010 in Bachu Das Vs. State of Bihar and others) decided on 03.02.2014;
- Judgment in Writ Petition(C) No.1015 of 2018 in Prathvi Raj Chauhan Vs. Union of India and others decided on 10.02.2020;
- Judgment in Crl.Apl.No.883 of 2020 (Arising out of SLP [Crl] No.5693 of 2020) in Rahna Jalal Vs. State of Kerala and another decided on 17.12.2020;
- Reportable judgment in Crl.Apl.No.... Of 2025 (@SLP [Crl.] No.8169 of 2025) in Kiran Vs. Rajkumar Jivraj Jain and another decided on 01.09.2025;
- Judgment in Crl.Petition No. 200375/2020 in Uday and another Vs. State of Karnataka decided on 14.07.2020;
- Judgment in Crl.Petition No.4917/ 2020 in T.Sureekantha Vs. State of Karnataka on 16.10.2020;
- Reportable judgment in Crl.Apl.No. 2622 of 2024 (Arising out of SLP

[Crl.] No.8081 of 2023) in Shajan Skaria Vs. The State of Kerala and another;

- Reportable judgment in Crl.Apl.No. 416/2018 in Union of India Vs. State of Maharashtra and others decided on 01.10.2019;
- Judgment in Crl.M.P.Nos.8318 and 8320 of 2020 in R.S.Bharathi Vs. State and another decided on 22.02.2021.

12. Upon hearing both the sides and on perusal of the records, the following points arise for my consideration;

1) Whether the petitioner has made out ground to enlarge him on anticipatory bail under Section 482 of BNSS 2023?

2) What orders?

13. My findings to the above points are as follows:

POINT NO.1: In the Affirmative,

POINT NO.2: As per my final order,

For the following;

REASONS

POINT NO.1:

14. During the course of arguments, the learned counsel for the petitioner vehemently contended that the alleged offences punishable under BNS or SC/ST (POA) Act are not made out in this case. He submitted that there is unexplained 4 days delay in lodging the complaint. Further, he submitted that the complaint averments does not show the specific utterances against the specific identified person. The allegations made in the complaint would not suffice to attract Sec.3(1)(r) or Sec.3(1)(u) of SC/ST (POA) Act. Therefore, there is no bar to entertain the anticipatory bail petition of the petitioner.

15. Further, he submitted that there is no statutory definition for blue shawl relates to scheduled caste persons and there is no link to connect the blue shawl to scheduled caste persons. Further, the video footages furnished by the respondent No.2 does not indicate any caste based attack against the members of

scheduled caste. Referring the decision of 'Hitesh Verma Vs. State of Uttarakhand reported in (2020) 10 SCC 710', and 'Keshav Mahto @ Keshaw Kumar Mahto Vs. State of Bihar and another reported in 2026 SCC Online SC 799', he submitted that mere the fact that the complainant is a member of scheduled caste, the offence under Sec.3(1)(r) would not attract and there must be intention to humiliate a member of SC/ST for the reason that the victim belongs to such caste. Further, relying upon the decision of 'Kiran Vs. Rajkumar Jeevaraj Jain and another reported in 2025 SCC Online SC 1886', he submitted that bar under Sec.18 of SC/ST (POA) Act would not apply, if prima facie for the alleged offences are not made out. Further, he submitted that in the absence of essential ingredients to attract the offence under Sec.3(1)(r) and 3(1)(u) of SC/ST (POA) Act, the anticipatory bail petition could be entertained. He has submitted that the Investigating Officer issued notice to the petitioner and he requested two weeks time. He

submitted that he would co-operate with the investigation and comply the any conditions. Thus, he prayed to allow the bail petition.

16. The learned counsel for respondent No.2 strenuously contended that in view of specific bar under Sec.18, 18-A of SC/ST (POA) Act, the anticipatory bail petition of the petitioner is not maintainable. Taking through the contents of the complaint and ingredients of Sec.3(1)(r), 3(1)(u) of SC/ST(POA) Act, he submitted that there is prima-facie case for the alleged offences under SC/ST (POA) Act. He submitted that the prima-facie case means the first impression on the contents of the complaint. He referred the Reportable decision dated 23.08.2024 of Hon'ble Apex Court in the case of 'Shajan Skaria Vs. State of Kerala and another' and submitted that on the face of complaint averments, there is specific materials against the petitioner for the alleged offences and caste based humiliation. Further, taking through the order dated 14.07.2020 passed in Cr1.P.no.200375/2020,

he submitted that when the prima-facie case made out on the first appearance of the complaint, the Hon'ble High Court of Karnataka dismissed the petition as not maintainable.

17. He also explained the reason for adopting the blue color shawl by the Dalit Organizations, faith in blue color shawl and its significance in the Dalit movement. Further, he submitted that the petitioner refereed the blue shawl to abuse the members of scheduled caste and he abused towards Police Officer on his caste basis. He also submitted that the circumstances would indicate that the petitioner had the intention to target the members of the scheduled caste and the complaint averments reflects caste based attack against the members of scheduled caste. Further the alleged caste abuse was within the public view. Thus, the anticipatory bail petition of the petitioner could not maintainable and prayed to reject the said petition.

18. The learned Public Prosecutor supporting the arguments of learned counsel for respondent No.2, submitted that the complaint averments indicates the prima-facie case for the offences under SC/ST (POA) Act and therefore in view of bar under Sec.18 of SC/ST (POA) Act, the anticipatory bail petition of the petitioner cannot be maintained.

19. Upon hearing both the sides and perusal of the records made available, it is not in dispute that the de-facto complainant is a member of scheduled caste and Dhananjay the police officer named in the complaint also a member of scheduled caste. Further, it is also not in dispute that the petitioner is a member of non-SC/ST. However, the complaint does not show the specific caste name of either complainant or said Dhananjay, Police Officer or the caste name of the petitioner. Be that as it may.

20. During the course of the arguments, the parties extensively adverted with regard to applicability of

Sec.18, 18-A of SC/ST (POA) Act and prima-facie case in this case. The petitioner contends that there is no prima-facie case for the alleged offences under SC/ST (POA) Act, on the other hand, the learned counsel for the respondent no.2 and learned Public Prosecutor contend that since there is prima-facie case made out from the complaint, there would be bar to entertain the anticipatory bail petition under Sec.18 of SC/ST (POA) Act. However both the sides are not in conflict with settled principle and position as to the consideration of anticipatory bail petition, where the prima facie case is not made out from the complaint averments, the bar under Sec.18 of SC/ST (POA) Act would not be applicable.

21. The Hon'ble Apex Court in the case of **Vilas Pandurang Pawar and Another Vs. State of Maharashtra** reported in (2012) 8 SCC 795, examined the scope of Sec.18 of SC/ST (POA) Act r/w Sec.438 of Cr.P.C. and limitations as to considering the materials, at Para 9 and 10 held that:

9. Section 18 of the SC/ST Act creates a bar for invoking Section 438 of the Code. However, a duty is cast on the court to verify the averments in the complaint and to find out whether an offence under Section 3(1) of the SC/ST Act has been *prima facie* made out. In other words, if there is a specific averment in the complaint, namely, insult or intimidation with intent to humiliate by calling with caste name, the accused persons are not entitled to anticipatory bail.

10. The scope of Section 18 of the SC/ST Act read with Section 438 of the Code is such that it creates a specific bar in the grant of anticipatory bail. When an offence is registered against a person under the provisions of the SC/ST Act, no Court shall entertain application for anticipatory bail, unless it *prima facie* finds that such an offence is not made out. Moreover, while considering the application for bail, scope for appreciation of evidence and other material on record is limited. 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 the Scheduled Castes and the Scheduled Tribes and a bar has been imposed in granting bail under Section 438 of the Code, the provision in the Special Act cannot be easily brushed aside by elaborate discussion on the evidence.

22. The question of applicability of Sec.18 and 18A came up for consideration in the case of **Prithvi Raj Chauhan Vs. Union of India** reported in (2020) 4 SCC 727, upon enactment of Sec.18A of SC/ST (POA) Act and the Hon'ble Apex Court at Para-11 held as under:

11. Concerning the applicability of provisions of Section 438 Cr.PC, it shall not apply to the cases under Act of 1989. However, if the complaint does not make out a prima facie case for applicability of the provisions of the Act of 1989, the bar created by section 18 and 18A (i) shall not apply.

23. The Full Bench of Hon'ble Apex Court in the decision rendered in **Hitesh Verma Vs. State of Uttarakhand and Another**, reported in (2020) 10 SCC 710, considered the gamut of Sec.3(1)(r) of SC/ST (POA) Act in the light of the objects of the said Act elaborately and at Para 8 to 13 held as under:

8. Against the backdrop of these facts, it is pertinent to refer to the Statement of Objects and Reasons of enactment of the Act. It is provided as under:

“Despite various measures to improve the socio- economic conditions of the Scheduled Castes and the Scheduled Tribes, they remain vulnerable. They are denied number of civil rights. They are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been deprived of their life and property. Serious crimes are committed against them for various historical, social and economic reasons.

2. Because of the awareness created amongst the Scheduled Castes and the Scheduled Tribes through spread of education, etc., they are trying to assert their rights and this is not being taken very kindly by the others. When they assert their rights and resist practices of untouchability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them. When the Scheduled Castes and the Scheduled Tribes try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty. Occupation and cultivation of even the Government allotted land by the Scheduled Castes and the Scheduled Tribes is resented and more often these people become victims of attacks by the vested interests. Of late, there has been an increase in the disturbing trend of commission of certain atrocities like making the Scheduled Caste persons eat inedible substances like human excreta and attacks on and mass killings of helpless Scheduled Castes and the Scheduled Tribes and rape of women belonging to the Scheduled Castes and the Scheduled Tribes. Under the circumstances, the existing laws like the Protection of Civil Rights Act, 1955 and

the normal provisions of the Indian Penal Code have been found to be inadequate to check these crimes. A special Legislation to check and deter crimes against them committed by non-Scheduled Castes and non-Scheduled Tribes has, therefore, become necessary.”

9. The long title of the Act is to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts and Exclusive Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

10. The Act was enacted to improve the social economic conditions of the vulnerable sections of the society as they have been subjected to various offences such as indignities, humiliations and harassment. They have been deprived of life and property as well. The object of the Act is thus to punish the violators who inflict indignities, humiliations and harassment and commit the offence as defined under Section 3 of the Act. The Act is thus intended to punish the acts of the upper caste against the vulnerable section of the society for the reason that they belong to a particular community.

11. It may be stated that the charge-sheet filed is for an offence under Section 3(1)(x) of the Act. The said section stands substituted by Act No. 1 of 2016 w.e.f. 26.1.2016. The substituted corresponding provision is 3(1)(r) which reads as under:

“3(1)(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;”

12. The basic ingredients of the offence under 3(1)(r) of the Act can be classified as “1) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and 2) in any place within public view”.

13. The offence under 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the Society is subjected to indignities, humiliations and harassment. XXXX

24. Further, in the case of **Shajan Skaria Vs. The State of Kerala and Another**, reported in 2024 SCC Online SC 2249, the Hon’ble Apex Court examined the prima-facie case required to decide the offence under Sec.3(1)(r) of

SC/ST (POA) Act and duty of the court, at Para-47 to 51

held that:

47. Prima facie is a Latin term that translates to “at first sight” or “based on first impression”. The expression “where no prima facie materials exist warranting arrest in a complaint or FIR” should be understood as “when based on first impression, no offence is made out as shown in the FIR or the complaint”. This means that when the necessary ingredients to constitute the offence under the Act, 1989 are not made out upon the reading of the complaint, no case can be said to exist prima facie.

48. As a sequitur, if the necessary ingredients to constitute the offence under the Act, 1989 are not disclosed on the prima facie reading of the allegations levelled in the complaint or FIR, then in such circumstances, as per the consistent exposition by various decisions of this Court, the bar of Section 18 would not apply and the courts would not be absolutely precluded from granting pre-arrest bail to the accused persons.

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.

50. The duty to determine prima facie existence of the case is cast upon the courts with a view to ensure that no unnecessary humiliation is caused to the accused. The courts should not shy away from conducting a preliminary inquiry to determine if the narration of facts in the complaint/FIR in fact discloses the essential ingredients required to constitute an offence under the Act, 1989. It is expected of the courts to apply their judicial mind to determine whether the allegations levelled in the complaint, on a plain reading, satisfy the ingredients constituting the alleged offence. Such application of judicial mind should be independent and

without being influenced by the provisions figuring in the complaint/FIR. The aforesaid role of the courts assumes even more importance when a prima facie finding on the case has the effect of precluding the accused person from seeking anticipatory bail, which is an important concomitant of personal liberty of the individual.

51. The aforesaid position is also apparent from a plain construction of the text of Section 18 of the Act, 1989. The words "having committed an offence under this Act" denote that it is only when the accusation in the complaint clearly points towards the commission of an offence under the Act, 1989 that the bar of Section 18 would apply. The minimum threshold for determining whether an offence under the Act has been committed or not is to ascertain whether all the ingredients which are necessary to constitute the offence are prima facie disclosed in the complaint or not. An accusation which does not disclose the necessary ingredients of the offence on a prima facie reading cannot be said to be sufficient to bring into operation the bar envisaged by Section 18 of the Act, 1989. Holding otherwise would mean that even a plain accusation, devoid of the essential ingredients required for constituting the offence, would be enough for invoking the bar under Section 18. In our considered view, such an approach would not be in line with the dictum as laid by this Court while upholding the Constitutionality of

Section 18 and 18-A respectively of the Act, 1989.

25. The Hon'ble Apex Court in the aforesaid decision, further examined the scope of expression 'intent to humiliate' appearing in Sec.3(1)(r) of SC/ST (POA) Act, and at Para-61, 62, 69 and 70 held that:

61. The words "with intent to humiliate" as they appear in the text of Section 3(1)(r) of the Act, 1989 are inextricably linked to the caste identity of the person who is subjected to intentional insult or intimidation. Not every intentional insult or intimidation of a member of a SC/ST community will result into a feeling of caste-based humiliation. It is only in those cases where the intentional insult or intimidation takes place either due to the prevailing practice of untouchability or to reinforce the historically entrenched ideas like the superiority of the "upper castes" over the "lower castes/untouchables", the notions of 'purity' and 'pollution', etc. that it could be said to be an insult or intimidation of the type envisaged by the Act, 1989.

62. We would like to refer to the observations of this Court in Ram Krishna Balothia (supra) to further elaborate upon the idea of "humiliation" as it has been used under the Act, 1989. It was observed in the said case that the offences enumerated under the Act, 1989 belong to a separate category as they arise from the

practice of 'untouchability' and thus the Parliament was competent to enact special laws treating such offences and offenders as belonging to a separate category. Referring to the Statements of Objects and Purposes of the Act, 1989 it was observed by this Court that the object behind the introduction of the Act, 1989 was to afford statutory protection to the Scheduled Castes and the Scheduled Tribes, who were terrorised and subjected to humiliation and indignations upon assertion of their civil rights and resistance to the practice of untouchability. For this reason, mere fact that the person subjected to insult or intimidation belongs to a Scheduled Caste or Scheduled Tribe would not attract the offence under Section 3(1)(r) unless it was the intention of the accused to subject the concerned person to caste-based humiliation.

* * * 69.

What appears from the aforesaid discussion is that the expression "intent to humiliate" as it appears in Section 3(1)(r) of the Act, 1989 must necessarily be construed in the larger context in which the concept of humiliation of the marginalised groups has been understood by various scholars. It is not ordinary insult or intimidation which would amount to 'humiliation' that is sought to be made punishable under the Act, 1989. The Parliament, by way of different legislations, has over the years sought to target humiliation based on different grounds and identities which exist in the society. The protection of Women from Domestic

Violance Act, 2005 seeks to punish humiliation based on gender inequalities by specifically including the term 'humiliation' in the definition of "domestic violence". Similarly, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 includes treatment causing humiliation to a female employee and which may likely affect her health and safety within the definition of sexual harassment.

70. In our considered view, it is in a similar vein that the term 'humiliation' as it appears in Sec.3(1)(r) of the Act, 1989 must be construed, that is, in a way that it deprecates the infliction of humiliation against members of the Scheduled Castes and Scheduled Tribes wherein such humiliation is intricately associated with the caste identity of such members.

26. In the case of **Keshaw Mahto alias Keshaw Kumar Mahto Vs. State of Bihar and another** reported in 2026 SCC Online SC 799, the Hon'ble Apex Court examined the scope of Sec.3(1)(r) of SC/ST (POA) Act, and at para-12 to 14 held as under;

12. Section 3(1)(r) is attracted where the reason for the intentional insult or intimidation by the accused is that the person who is subjected to is a member of a Scheduled Caste or a Scheduled Tribe. In other words, the offence under Section 3(1)(r) cannot stand merely on the fact that the

informant/complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless the insult or intimidation is with the intention to humiliate such a member of the community.

13. To put it briefly - first, the fact that the complainant belonged to a Scheduled Caste or a Scheduled Tribe would not be enough. Secondly, any insult or intimidation towards the complainant must be on the account of such person being a member of a Scheduled Caste or a Scheduled Tribe.

14. With a view to dispel any doubt and lend clarity, we deem it appropriate to mention that even mere knowledge of the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe is not sufficient to attract Section 3(1)(r).

27. In the case of **Kiran Vs. Rajkumar Jivraj Jain and Another**, reported in 2025 SCC Online SC 1886 examined the nature of bar under Sec.18 of SC/ST (POA) Act and prima facie case, referring aforesaid decisions Vilas Pandurang Pawar and another, Prithvi Raj Chouhan, Hitesh Verma referred above and other decisions, at Para-6, 6.1, 6.2 held as under;

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.

28. Further, the Hon'ble Apex Court, in the case of Shajan Skaria supra, also examined the scope of Sec.3(1)(u) of SC/ST (POA) Act, at Para-77 observed that;

77. In our opinion, there is nothing to even prima facie indicate that the appellant by publishing the video on YouTube promoted or attempted to promote feelings of enmity, hatred or ill-will against the members of Scheduled Castes or Scheduled Tribes. The video has nothing to do in general with the members of Scheduled Caste or the Scheduled Tribe. His target was just the complainant alone. The offence under Section 3(1)(u) will come into play only when any person is trying to promote ill feeling or enmity against the members of the scheduled castes or scheduled tribes as a group and not as individuals.

29. Keeping in mind the aforesaid legal principles evolved, on reverting back to the contents of complaint in the present case, it appears that the petitioner allegedly uttered towards the scheduled caste workers, in front of the T.Narasipura Police Station during the procession of lord Ganesha idol immersion that ನೀವು ಕೇವಲ ನೀಲಿ ಶಾಲು ಹೊದ್ದು ಉದರನಿಮಿತ್ತವಾಗಿ ಬಂದು ನಿಲ್ಲುತ್ತೀರಿ, ನಿಮಗೆ ಅಂಬೇಡ್ಕರ್ ಅವರ ಬಗ್ಗೆ ಏನೂ ಗೊತ್ತಿಲ್ಲ, ಮೊದಲು ಅಂಬೇಡ್ಕರ್ ಓದಿ. According to petitioner, the purpose of wearing the blue shawl by the workers of scheduled caste is for their livelihood. Such allegation does not signify the caste based attack towards such workers. Further, it is attributed in the complaint that the office bearers of Dalit organization are protesting for money or personal gain, and the petitioner took caste name of the Police official, who is according to the petitioner, a sub-standard person and he objected for supporting such police official only because he belongs to scheduled caste. During the course of arguments, the prosecution furnished the video-graphs furnished by the

respondent no.2 to Investigating officer and respondent No.2 confirmed such videographs before this Court. On viewing such videographs in the presence of learned counsel for the petitioner, respondent No.2 and his counsel and learned Public Prosecutor, it does not indicate the caste based insult towards any of the members of scheduled caste. On combined reading of the compliant and videographs, it clarifies that the alleged imputations by the petitioner alleged in the complaint are not for the reason that the workers, office bearers of association of scheduled caste and said Dhananjay are the members of Scheduled caste, but for the protest held by Dalitha Sangharsha Samithi and supporting Dhananjay, a Police Officer, who according to petitioner had not performed his functions as per law. Thus, the complaint does not satisfy the essential ingredient of Sec.3(1)(r) of SC/ST(POA) Act.

30. As per the contents of complaint, the petitioner targeted the workers of scheduled caste and alleged

against them that ನೀವು ಕೇವಲ ನೀಲಿ ಶಾಲು ಹೊದ್ದು ಉದರನಿಮಿತ್ತವಾಗಿ ಬಂದು ನಿಲ್ಲುತ್ತೀರಿ. Further, he allegedly attributed against the office bearers of the Dalit organization and Police official. So, apparently the alleged objectionable statements are concerning to certain specified persons of scheduled caste and the petitioner would not impute on the whole group of scheduled caste. The videograph produced by the prosecution would indicate the allegations of petitioner against the persons claiming to be the members of Dalit Sangarsh Samithi and such videograph also fortify that the petitioner is not attributing against scheduled caste persons as whole. The petitioner targeted against particular individuals i.e., workers and office bearers, persons of particular association of scheduled caste. Further, such videographs does not indicate that the petitioner is trying to promote ill feeling or enmity against the members of scheduled caste, rather it appears that the petitioner objects to bring caste in every dispute. Therefore, prima-facie case for the alleged

offence under Sec.3(1)(u) of SC/ST (POA) Act could not made out. As the alleged offences under the SC/ST (POA) Act could not made out, there is no bar to consider the anticipatory bail petition of the petitioner.

31. The other offence punishable under Sec.352 of BNS is bailable in nature. In so far the alleged offence under Sec.356 of BNS, the prosecution submitted the requisition to drop such provision in this case. Thus, in view of the aforesaid aspects of the matter, the prima facie case for the alleged non-bailable offences are not satisfied, and hence, the petitioner is entitled for anticipatory bail subject to conditions. Therefore, I hold the point no.1 is in **affirmative**.

Point No.2:

In view of my findings on point No.1, I proceed to pass the following:-

ORDER

The bail petition filed by the petitioner under Sec.482 of BNSS is allowed.

The petitioner shall be released in the event of his arrest in connection with Cr.No.333/2026 of T.Narasipura Police Station, on executing personal bond for Rs.1,00,000/- with one surety for the like-sum subject to following conditions;

- 1) The petitioner shall co-operate with the further investigation;
- 2) He shall not threaten the witnesses or tamper the prosecution evidences;
- 3) He shall not directly or indirectly make an attempt to influence any of the witness;
- 4) He shall appear before the Investigating Agency as and when called by them and render full co-operation for the purpose of investigation;
- 5) He shall file an affidavit furnishing the details of his permanent address, mobile number and email address before the Investigating officer;

- 6) He shall not leave the jurisdiction of this court without prior intimation to Investigation Officer.

(Dictated to Stenographer Grade-I directly on the computer and typed by her, revised and corrected by me and thereafter pronounced in open court on this the 8th day of October, 2026)

(Shivaprasad K.B.)
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)
(Special Court exclusively to deal with criminal cases
related to elected former and sitting MPs/MLAs in the
State of Karnataka)

SHIVAPRASAD
KB

Digitally signed
by
SHIVAPRASAD
KB
Date:
2026.10.08
17:37:57 +0530