

THE HONOURABLE SRI JUSTICE N. TUKARAMJI

CRIMINAL PETITION No.5088 of 2025

ORDER:

This petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS, 2023') seeking quashment of the proceedings in M.C.No.C4/104/2024, dated 22.10.2024 passed by the Executive Magistrate & Tahsildar, Geesugonda Mandal, Warangal District, against the petitioner.

2. Heard Mr.Laxmaiah Kanchani, learned counsel for petitioner and Mr.Jithender Rao Veeramalla, learned Additional Public Prosecutor appearing for the respondent No.1-State.

3. In the impugned proceedings, the petitioner, has been committed to prison under a warrant for breach of bond for good behaviour executed under Section 122 (1) (b) of Cr.P.C.

4. Learned counsel for the petitioner would submit that the petitioner has been committed to prison without there being an opportunity of explanation/hearing taken into custody by executing the warrant on 07.04.2025. Further, pleaded that mere registration of crime, without there being any conclusive findings, committing the petitioner on the ground of breach of bond is untenable. Furthermore pleaded that this Court, having considered the cases of the other

petitioners who were in similar stand had quashed the proceedings for not providing the due opportunity and in absence of any conclusive material as to breach of bond. Thus prayed for interference and quashment of the proceedings.

5. Learned Additional Public Prosecutor would submit that Executive Magistrate upon following due procedure had issued the warrant upon registration of COR and taking the report of the Station House Officer, Prohibition and Excise Station dated 07.04.2025 into account the petitioner to prison for breach of bond.

6. I have perused the materials on record.

7. The petitioner is not disputing the fact of execution of bond over good behaviour for a period of two years for a sum of Rs.2,00,000/- , with a surety, before the Mandal Executive Magistrate, Geesugonda. Further, as per the report of the Station House Officer, Prohibition and Excise Station, dated 07.04.2025, the registration of COR against the petitioner alleging possession and trading of illicit liquor. Basing on such report, Tahsildar and Executive Mandal Magistrate proceeded with the notice for forfeiture of bond for good behaviour. Though as per record notice was served, the reference column is making out that the petitioner was not available, as such, recording of service of notice on the petitioner is found not proper. That apart earlier this Court has taken the view that mere allegation of commission of offence cannot

be taken as conclusive to hold that the petitioner/accused has committed breach of bond, unless the guilt/charge of the offence has been proved before the competent Court. In that view, the conclusion drawn by the Executive Magistrate for forfeiture of bond is untenable and unsustainable.

8. For the aforesaid reasons, the Criminal Petition is liable to be allowed and the impugned order dated 22.10.2024 passed by the Executive Magistrate & Tahsildar, Geesugonda Mandal, is hereby set aside. However, it is needless to say that, the authority would be at liberty to take steps, if required, at appropriate stage in accordance with law.

9. As the impugned order/warrant is set aside, the petitioner shall be set at liberty. The 4th-respondent, Superintendent of District Prison for Woman, at Narsampet, Warangal District, is directed to release the petitioner forthwith.

10. With this observation, this petition is allowed.

Miscellaneous petitions, pending if any, shall stand closed.

JUSTICE N. TUKARAMJI

Date: 11.04.2025

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CRIMINAL PETITION No.5088 of 2025

Dated 11.04.2025

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