

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION No. 5405 OF 2025

ORDER

This Criminal Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS, 2023'), seeking quashment of the proceedings in warrant in M.C.No.112/2024, dated 11.04.2025 passed by the Mandal Executive Magistrate & Tahsildar, Geesugonda Mandal, Warangal District, against the petitioner.

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

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 and taken into custody by executing the warrant on 11.04.2025. 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. Further, the 2nd respondent has not followed the procedure laid down under BNSS in conducting enquiry

and recording the evidence to ascertain the information and also not issued any notice or not given any opportunity to the petitioner before passing orders under Section 141 of BNSS. 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 the 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 11.04.2025 into account the petitioner was sent 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. As per the petitioner, upon the report of the Station House Officer, Prohibition and Excise Station, the COR has been registered against the petitioner alleging commission of related offence, the Tahsildar and Mandal Executive Magistrate proceeded with the notice for forfeiture of bond for good behaviour. In the absence of the material indicating proper service

of notice and mere registration of crime would not be a conclusive fact to hold that the petitioner has committed breach of bond, this Court is of the considered view that the conclusion drawn by the Executive Magistrate for forfeiture of bond and committing to prison under warrant is untenable and unsustainable.

8. For the aforesaid reasons, the Criminal Petition is liable to be allowed and the impugned warrant dated 11.04.2025 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 Women, at Narsampet, Warangal District, is directed to release the petitioner forthwith.

10. With this observation, the Criminal Petition is allowed.

Pending miscellaneous applications, if any, shall stand closed.

N.TUKARAMJI, J

Date: 21.04.2025

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