

THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

CRIMINAL PETITION No. 5753 of 2025

ORDER:

This Criminal Petition is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhitha, 2023 (for short 'BNSS') seeking anticipatory bail to the petitioner/accused No.3 in Crime No.30 of 2025 on the file of the Police, Police Station, Shalibanda registered for the offences punishable under Section 118(1) r/w. Section 3(5) of BNS.

2. The case of the prosecution is that all the allegations leveled against the petitioner are denied, the petitioner is falsely implicated in this case though he has not committed any offence. He is law aiding citizen. Section 118(1) of BNS does not attract against the petitioner, because the contents of complaint and FIR it is alleged that the petitioner has beaten the *de facto* complainant's husband with hands. The police without conducting any proper investigation and influenced by the *de facto* complainant, foisted this false case. As per decision of Hon'ble Apex Court in **"Arnesh Kumar vs. State of Bihar"**¹, no arrest is to be made without reasonable

¹ (2014) 8 SCC 273

satisfaction. The petitioner is private employee. He is having old aged parents, who are suffering with old aged ailments. The petitioner is only person to look after his entire family. The entire investigation has been completed, and statements of material witnesses recorded except filing of charge sheet. The petitioner is apprehending arrest and use of third degree by the respondent police, and in such an event, the reputation of the petitioner would be spoiled and so prayed to grant anticipatory bail.

3. Heard Mr. Nouman, learned counsel representing Mr. Mujeeb Ali, learned counsel for the petitioner/accused No.3 and Mr. Syed Yasar Mamoon, learned Additional Public Prosecutor for respondent -State.

4. Learned counsel for the petitioner/accused No.3 submitted that the petitioner has not committed the offence and they were falsely implicated in the present crime. He further submitted that initially the crime was registered for the offence under Section 118(1) R/W 3(5) of BNS and subsequently the section of law altered into Section 118(2) of r/w 3(5) of BNS and also stated that the said section does not attract against the petitioner. He further contended that the petitioner is not having any criminal antecedents and

also contended that the petitioner is ready and willing to cooperate with the investigation and also ready to abide by the conditions, which are going to be imposed by this Court. He further submitted that petitioner is a student and prosecuting B.Com Computer Applications in Shankarlal Dhanraj Signodia College of Arts, Commerce and PG center and hence, requested to grant anticipatory bail to the petitioner.

5. *Per contra*, learned Additional Public Prosecutor submitted that petitioners have committed grave offence. It is further submitted that investigation is under progress and if the petitioner/accused No.3 granted anticipatory bail at this stage, he may tamper the evidence and may threaten the witnesses, and hence, prayed to dismiss the petition.

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that initially crime No.30 of 2025 was registered for the offence under Section 118(1) of BNS and subsequently, the same was altered into Section 118(2) of BNS and according to the material placed on record, the petitioner is a student prosecution B.Com Computer Applications in

Shankarlal Dhanraj Signodia College of Arts, Commerce and PG Centre. Even according to the learned Additional Public Prosecutor, the petitioner is not having any criminal antecedents and the same was not disputed by the learned Additional Public Prosecutor.

7. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner/accused No.3 with the following conditions:

- (i) Petitioner/accused No.3 is directed to surrender before the S.H.O., Police Station, Shalibanda on or before 07.05.2025 and on such surrender, he shall be enlarged on bail on executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties for a like sum to his satisfaction.
- (ii) On such release, petitioner/accused No.3 shall appear before the S.H.O., Police Station, Shalibanda on every Monday at 11-00 a.m. for a period of eight (8) weeks or till filing of the charge sheet, whichever is earlier.
- (iii) Petitioner/accused No.3 shall abide by the conditions stipulated under Section 482(2) of

BNSS and shall cooperate with the Investigating Officer in the investigation.

- (iv) Petitioner/accused No.3 shall not interfere with the investigation or influence the witnesses.

8. Accordingly, the Criminal Petition is allowed.

Miscellaneous applications, pending if any, shall stand closed.

J. SREENIVAS RAO, J

Date: 23.04.2025

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THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

CRIMINAL PETITION No. 5753 of 2025
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