APHC010404642025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3521]**
(Special Original Jurisdiction)

THURSDAY, THE 29th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 8581/2025

Between:

1. MUNDINENI RAMAKRISHNA, S/O VENKATASWAMY, AGED ABOUT 32 YEARS, R/O.5-19, NAGAVARAM VILLAGE, H/O MUKKOLLU, GADURU MANDAL, KRISHNA DISTRICT, AADHAR NO.3381 1336 2505.
2. SAMMETA GANAPATHI RAO ALIAS GANAPATHI, S/O SUBBARAO, AGED ABOUT 37 YEARS, R/O.2/42-1, MUKKOLLU VILLAGE, GUDURU MANDAL, KRISHNA DISTRICT, AADHAR NO.6769 7902 0229

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, THROUGH S.H.O., INAGURU U.P.S., KRISHNA DISTRICT, REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH, AMARAVATI.
2. KATRAGADDA PARVATHI DEVI, TARAKATURU VILLAGE, GUDURU MANDAL,KRISHANA DIST.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused(S):

CHALLA AJAY KUMAR

Counsel for the Respondent/complainant(S):

1. B PARAMESEWARA RAO
2. PUBLIC PROSECUTOR

The Court made the following:

ORDER:

This Criminal Petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS') by the Petitioners/Accused Nos.1 and 7, seeking for grant of pre-arrest bail in connection with Crime No.115 of 2025 of Inaguduru Urban Police Station, Kakinada District, registered for the alleged offences punishable under Sections 308(2), 351(2), 79 read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for brevity 'the BNS').

2. Heard the learned counsel for the Petitioners and the learned Assistant Public Prosecutor. Perused the record.

3. On perusal of the record, the Petitioners are arraigned as Accused Nos.1 and 7. The alleged offence is punishable under Section 308(2) of 'the BNS'. The Petitioners filed Crl.M.P.No._ of 2025 in Crime No.115 of 2025 of Inaguduru Urban Police Station. By order dated 22.07.2025, the learned Sessions Judge returned the application on the ground that the alleged offence was punishable with imprisonment for less than seven years. Subsequently, Section 308(5) of 'the BNS' was added.

4. The Petitioners without approaching the learned Sessions Judge at the first instance seeking pre-arrest bail and have directly approached this Court,

which procedure is contrary to the law laid down by the Hon'ble Apex Court in ***Mohammed Rasal.C v. State of Kerala***[1] and ***Jagdeo Prasad v. State of Bihar and others***[2]***.***

5. The Hon'ble Apex Court in ***Mohammed Rasal. C*** *supra* wherein at paragraph Nos.7, 8 and 9 it was held as follows:-

> *"7. The Sessions Judge exercises powers under Section 438 Cr.P.C in relation to all cases registered with the police stations in the particular District. This area-wise distribution of work would make it much more convenient and facilitate expeditious disposal, if the application for pre-arrest bail is first filed before the Sessions Court which would have a direct and first-hand assistance of the concerned Public Prosecutor appointed for that particular District. The Sessions Court would also have an immediate access to the Case Diary thereby facilitating a better appreciation of facts of the case.*
>
> *8. We further feel that if the practice of entertaining the applications for pre-arrest bail directly in the High Court is encouraged, and the parties concerned are not relegated to first approach the Sessions Court concerned, the High Court would be flooded with a spate of pre-arrest bail applications thereby creating a chaotic situation. We say so, because if the parties are required to approach the Sessions Court concerned for seeking remedy of pre-arrest bail, there is a strong probability that significant number of applications would be allowed at that level only thereby acting as a filtration process before the process reaches the High Court.*
>
> *9. It is trite that in most of the States, there is a consistent practice requiring the litigant concerned to first approach the Sessions Court for seeking relief of pre-arrest bail and only in the event of denial of such relief, the litigant would be granted access to approach the High Court for seeking such relief. This is, of course, subject to just exceptions and the High Court, for reasons to be recorded, may entertain an application for pre-arrest bail directly in special/ extra-ordinary circumstances."*

6. The Hon'ble Apex Court in ***Jagdeo Prasad*** *supra* at para No. 6 as under:

> *"6. However, before parting, we do wish to express our sincere concern with the haste at which the High Court has dealt with this*

[1] Special Leave to Appeal (Crl) Nos. 6588 of 2025, dated 08.09.2025.
[2] Crl. Appeal @ SLP (Crl) No. 17805 of 2024 etc.

> *matter. While the scheme of Criminal Procedure Code, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) provides concurrent jurisdiction to the High Court and Sessions Court for entertaining applications for anticipatory bail, this Court has time and again observed that High Court should always encourage exhausting an alternative/concurrent remedy before directly interfering itself. This approach balances the interests of all the stakeholders, first by giving the aggrieved party a round of challenge before the High Court. Second, this approach provides the High Court an opportunity to assess the judicial perspective so applied by the Sessions Court, in concurrent jurisdiction, instead of independently applying its mind from the first go. Further, the High Court fails to record any reason for directly granting anticipatory bail without impleading the appellant-complainant as a party."*

7. Albeit this Court has got concurrent jurisdiction under Section 482 of 'the BNSS.,' such discretionary relief would only be granted, when the Petitioner establishes a special case or extra ordinary circumstance. As seen from the averments, the Petitioners neither established a special case nor extra-ordinary circumstance. However, in view of the orders passed in ***Mohammed Rasal.C*** and ***Jagdeo Prasad*** *supra*, this Court is not inclined to exercise its discretionary power to grant pre-arrest bail to the Petitioners, as they have not approached the learned Sessions Judge concerned at first instance.

8. In view of the facts and circumstances of the case, this Criminal Petition is disposed of, permitting the petitioners to approach the learned Sessions Judge by filing an application seeking grant of pre-arrest bail within a period of two (02) weeks from the date of receipt of the copy of this order. Until then, the Investigating Officer is directed not to take any coercive steps against the petitioners/Accused Nos.1 and 7. In the meanwhile, the Investigating Officer is

directed to conduct further investigation, and the petitioners shall cooperate with the investigation.

9. In the result, the Criminal Petition is disposed of.

As a sequel, Miscellaneous petitions, if any pending, shall stand closed.

DR. Y. LAKSHMANA RAO, J

Date: 29.10.2026
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34

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 8581 of 2025

29.10.2026

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