APHC010519962026

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

THURSDAY, THE 8th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 8735/2026

Between:

1. SHAIK MUNEER BASHA, S/O SK.MUSTHAFFA AGED ABOUT 33 YEARS, OCC COOLIER/O 1-1431, NTR NAGAR, SRIKALAHASTHI TOWN AND MANDAL.TIRUPATHI DISTRICT

...PETITIONER/ACCUSED No.7

AND

1. THE STATE OF ANDHRA PRADESH, Rep by its Public Prosecutor High Court at Amaravathi,Through Station House Officer,Venkatagiri Police Station, Tirupathi District

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

1. S SYAMSUNDER RAO

Counsel for the Respondent/complainant:

1. PUBLIC PROSECUTOR

The Court made the following:
ORDER:

The Criminal Petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS') by the Petitioner/Accused No.7 for granting of pre-arrest bail in connection with

Crime No.157 of 2026, dated 14.08.2026 of Venkatagiri Police Station, Pendurthy, Tirupathi District, was registered for the alleged offences punishable under Sections 318(2), 318(4), 61(2), 308(5), 113(3) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for brevity, 'the BNS') and Section 3 of the A.P. Lotteries Act and Section 9 of A.P. Gaming Act.

2. Mr. S.Syamsunder Rao, the learned counsel for the Petitioner, contends that the Petitioner is the innocent of the alleged offence and he has been falsely implicated by the police. It is further submitted that the Petitioner is the sole earning member of the family and, therefore, his incarceration would cause undue hardship to his dependents. The Petitioner undertakes to strictly adhere to any conditions that may be imposed by this Court. Hence, it is urged to allow the Criminal Petition.

3. *Per contra*, Mr.A.Sai Rohith, the learned Assistant Public Prosecutor, vehemently opposed the grant of pre-arrest bail to the Petitioner, submitting that the investigation is still underway and several material witnesses remain to be examined. It is contended that if the Petitioner is released on pre-arrest bail, there is a strong likelihood that he may abscond, thereby hampering the ongoing investigation and evading the process of law. Hence, it is urged to dismiss the Criminal Petition.

4. Heard the learned counsel for the Petitioner and the learned Assistant Public Prosecutor. Perused the record.

5. On perusal of the record, the Petitioner is arraigned as Accused No.7 in this case. The allegation against the Petitioner is that Accused Nos.1 to 6 revealed that the Petitioner instigated Accused No.8 to organise the game of Matka single lottery, thereby deceiving daily wage labourers. No money is alleged to have been recovered from the possession of the Petitioner. So far, four witnesses have been examined. The Petitioner is a permanent resident of Tirupathi District. He has got fixed abode. The nature of the evidence available against the Petitioner is only the confession statement of the co-accused.

6. In this regard, it is profitable and relevant to refer the judgment of the Hon'ble Apex Court in **P.Krishna Mohan Reddy v. State of Andhra Pradesh**[1], wherein it is held that a confession made to the police by an accused is inherently inadmissible under Section 25 of the Indian Evidence Act, 1872 and cannot be relied upon at the bail stage or during trial. Consequently, Section 30 does not permit using such a confession to implicate a co-accused. Thus, at Para No.53 (iv) it is held as under:

> *"53. From the above exposition of law, the following emerges:*
> *(iv) Where such police statement of an accused is confessional statement, the rigour of Section(s) 25 and 26 respectively will apply with all its vigour. A confessional statement of an accused will only be admissible if it is not hit by Section(s) 24 or 25 respectively and is in tune with the provisions of Section(s) 26, 28 and 29 of the Evidence Act respectively.*
> *In other words, a police statement of an accused which is in the form of a confession is per se inadmissible and no reliance whatsoever can be placed on such statements either at the stage of bail or during trial. Since such confessional statements are rendered inadmissible*

[1] 2025 SCC Online SC 1157

> *by virtue of Section 25 of the Evidence Act, the provision of Section 30 would be of no avail, and no reliance can be placed on such confessional statement of an accused to implicate another co-accused.*"

7. Having regard to the facts and circumstances of the case, the nature of the evidence available against the Petitioner/Accused No.7, this Court is inclined to enlarge the Petitioner/Accused No.7 on pre-arrest bail with some stringent conditions.

8. In the result, the Criminal Petition is allowed with the following conditions:

i. In the event of his arrest, the Petitioner/Accused No.7 shall be enlarged on bail subject to his executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for the like sum each to the satisfaction of the arresting police officials;

ii. The Petitioner/Accused No.7 shall make himself available for investigation as and when required;

iii. The Petitioner/Accused No.7 shall not cause any threat, inducement or promise to the prosecution witnesses.

iv. The petitioner/Accused shall appear before the Station House Officer concerned once in a week i.e., on every Saturday between 10.00 a.m. and 5.00 p.m., till filing of the Charge Sheet.

v. The Petitioner/Accused No.7 shall not leave the limits of the State of Andhra Pradesh without the express permission from the Station House Officer concerned.

vi. The Petitioner/Accused No.7 shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court.

vii. The Petitioner/Accused No.7 shall not indulge in similar activities in future. If any such activity is reported, the Investigating Officer is at liberty to file an appropriate application seeking cancellation of bail.

viii. The Petitioner/Accused No.7 shall surrender his passport, if any, to the Investigating Officer. If he claims that he does not have passport, he shall submit an affidavit to that effect to the Investigating Officer.

DR. Y. LAKSHMANA RAO, J

Date: 08.10.2026
PRA

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 8735 of 2026

Date: 08.10.2026

PRA