APHC010610582026

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

WEDNESDAY, THE 25th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 10295/2026

Between:

MANDADI SRINIVASA RAO ALIAS SRINU, AGED 43 YEARS, S/O. RAMURTHI,OCC COOLIE, R/O. D.NO.8/2-4-42, NTR COLONY,GUDIVADA TOWN AND MANDAL,KRISHNA DISTRICT-521301

...PETITIONER/ACCUSED

AND

THE STATE OF ANDHRA PRADESH, THROUGH SHO, GUDIVADA I TOWN POLICE STATION REPRESENTED BY ITS PUBLIC PROSECUTOR,HIGH COURTOF ANDHRA PRADESHAT AMARAVATH

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

MUNNANGI THANMAI KRISHNA

Counsel for the Respondent/complainant:

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'), seeking to grant pre-arrest bail to the petitioner/Accused No.2 in Crime No.193 of 2026 of Gudivada I Town Police Station, Krishna District, registered for the alleged offences punishable under Sections 318(4), 316(2) and 351(2) read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for brevity, 'the BNS').

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

3. As seen from the record, the clear allegation of the de-facto complainant is that the petitioner and the other accused were running a chit business and failed to pay certain amounts due to the subscribers, as mentioned in the complaint. Initially, the FIR was registered for the offences punishable under Sections 318(4), 316(2) and 351(2) read with Section 3(5) of 'the BNS'. In the course of investigation, the Investigating Officer filed a memo adding Section 5 of the Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999 (for brevity, 'the Act'), on the ground that the petitioner and the other accused informed the victims that they had no money to pay the chit amounts, but assured them that the chit amounts would be paid to the subscribers along with interest.

4. Though the merits of the matter cannot be gone into at this stage while considering the bail application, even if the allegations in the complaint and the statements of the witnesses are taken at their face value, it is difficult to hold that the definition of 'deposit' under Section 2(b) of 'the Act' is attracted to the facts of the present case, inasmuch as the said provision contemplates a deposit being made for a fixed period, either with interest or with any other return.

5. The learned counsel for the petitioner has relied upon the order dated 03.02.2026 passed by a learned Co-ordinate Bench of this Court in Crl.P.No.259 of 2023, wherein, at paragraph No.6, the learned Judge, by referring to the judgment of another learned Co-ordinate Bench of this Court in **V. Sreenivasa Reddy and Others v. State of Andhra Pradesh**[1], held as under:

> *6. The decision dated 19.01.2023 of this High Court in V.Sreenivasa Reddy and others v. State of Andhra Pradesh and others in Crl.P.No.9573 of 2022 in a petition filed to quash a complaint in relation to offences under Section 420 R/w 34 IPC and Section 5 of the APPDFE Act, 1999, is as follows:*
>
> *"10. The Act is applicable in relation to non-payment of deposits made by victims in financial establishments. Section 2(b) of the Act defines deposit as:*
>
> *"deposit means the deposit of a sum of money either in lumpsum or instalments made with a financial establishment for a fixed period, for interest-or return in any kind."*
>
> *Similarly, financial establishment is defined in Section 2(c) in the following manner:*
>
> *"Financial establishment means any person or group of individuals accepting deposit under any scheme or arrangement or in any other manner but does not include a corporation or a co-operative society owned or controlled by any State Government or the Central*

[1] Crl.P.No.9573 of 2022 vide order dated 19.01.2023

> *Government or a banking company as defined under clause (c) of Section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949)*
>
> *11. The definition of deposit under Section 2(b) requires that the deposit be made for a fixed period with interest or return in any kind. In the case of a chit transaction, the payment of money in the form of a deposit is not for a fixed period as the money paid by the chit subscriber is returned upon the subscriber being declared as the prized subscriber. As the time frame within which a chit subscriber is declared as a prized subscriber, is not a fixed period, it would have to be held that chit subscriptions and subscribers of chit funds cannot be treated as victims falling within the ambit of the Act."*

6. Indeed, the merits or demerits in the allegations cannot be considered in this petition. However, the Court is required to examine whether the allegations, even if taken at their face value, *prima facie* attract the provisions of 'the Act'.

7. Having regard to the facts and circumstances of the case, the allegations levelled against the petitioner and the submission with regard to the applicability of Section 5 of 'the Act', and as the offences alleged are punishable with imprisonment of less than seven years, this Court is of the view that the petitioner is entitled to the benefit of Section 35(3) of 'the BNSS'/Section 41-A of 'the Cr.P.C.,', in view of the judgments of the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar**[2]**, Md.Asfak Alam v. the State of Jharkhand**[3] and **Satender Kumar Antil v. Central Bureau of Investigation**[4].

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[2](2014) 8 SCC 273
[3](2023) 8 SCC 632
[4] Special Leave Petition (Crl.) No.5191 of 2021, dated 15.01.2026

8. In the light of the law laid down by the Hon'ble Supreme Court in **Satender Kumar Antil, Arnesh Kumar** and **Md. Asfak Alam**, the Investigating Officer is under a legal obligation to proceed in accordance with law and follow the procedure prescribed under Section 35(3) of 'the BNSS'. The petitioner is also obliged to extend his fullest cooperation in the ongoing investigation.

9. In the result, the Criminal Petition is disposed of directing the Investigating Officer to comply with the procedure contemplated under Section 35(3) of 'the BNSS'/Section 41-A of 'the Cr.P.C.' and strictly follow the directions issued by the Hon'ble Supreme Court in the judgments referred to *supra*.

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

DR. Y. LAKSHMANA RAO, J

Date: 25.11.2026
RSI

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THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION No.10295 of 2026

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RSI