IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE SEVENTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 5866 OF 2026

Between:

Shaik Mohammed @ Mohammed Bawazer,, S/o Shaik Salam Bawazer, Aged about 36 years, Occ. Advocate, R/o H.No. 18-10-352, Chandrayangutta, Hyderabad, Telangana.

...Petitioner/Sole Accused

AND

1. State of Telangana,, Rep. by Public Prosecutor, High Court for the State of Telangana, Hyderabad.
2. Ali Dayani,, S/o Ahmed Dayani, Aged about 56 yrs, Occ. Business, R/o H.no. 4-124, Errakunta, Balapur, RR District.

...Respondent-2/Complainants

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records relating to F.I.R. No.168 of 2026, on the file of Learned I Addl. Junior Civil Judge Cum Additional Judicial. 1st Class Magistrate, LB Nagar, RR District, and quash the same, in the interests of justice

I.A. NO: 2 OF 2026

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Stay all further proceedings in F.I.R. No.168 of 2026, on the file of Learned I Addl. Junior Civil Judge Cum Additional Judicial. 1st Class Magistrate, LB Nagar, RR District, pending quash petition, in the interests of justice.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Mr MOHAMMAD ADNAN, Advocate for the Petitioner and Mr. JITHENDER RAO VEERAMALLA, the Additional Public Prosecutor on behalf of Respondent No.1

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.5866 of 2026

Date: 17.04.2026

Between:

Shaik Mohammed @ Mohammed Bawazer.

...Petitioner

AND

State of Telangana and another.

...Respondents

Order:

This Criminal Petition has been filed seeking to quash the proceedings in F.I.R. No.168 of 2026 of Balapur Police Station, registered for the offences punishable under Sections 118(1), 352 and 351(2) of the Bharatiya Nyaya Sanhitha, 2023 (for short 'BNS').

2. Heard Mr.Mohammad Adnan, learned counsel for the petitioner, and Mr.Jithender Rao Veeramalla, learned Additional Public Prosecutor, appearing for respondent No.1. With their consent, the criminal petition is disposed of at the admission stage.

3. Learned counsel for the petitioner seeks permission to withdraw ground No.5 in Memorandum of grounds. Accordingly, ground No.5 is deleted.

4. Learned counsel for the petitioner submitted that the petitioner has not committed any offences and he has been falsely implicated in

the present crime. Even according to the allegations made in the complaint, the ingredients of the offences under Sections 118(1), 352 and 351(2) of the BNS, are not attracted against the petitioner on the ground that the petitioner has not used any weapon. He further submitted that the offences levelled against the petitioner are punishable with imprisonment of less than seven years. However, the Investigating Officer, without following the mandatory procedure prescribed under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') and the guidelines issued by the Apex Court in **Arnesh Kumar Vs. State of Bihar**[1], is proceeding with the investigation and the same is contrary to law.

5. Learned Additional Public Prosecutor submitted that the investigation is under progress and the Investigating Officer has already served notice under Section 35(3) of the BNSS to the petitioner on 06.04.2026 and the petitioner without submitting any reply to the said notice filed the present criminal petition.

6. Learned counsel for the petitioner by way of reply submitted that the petitioner has not yet received the notice under Section 35(3) of the BNSS till date; however, he will appear before the Investigating Officer and receive the notice.

7. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals

---

[1](2014) 8 SCC 273

that the offences levelled against the petitioner are punishable with imprisonment of less than seven years. Even according to the learned Additional Public Prosecutor, the Investigating Officer has already issued notice under Section 35(3) of the BNSS to the petitioner on 06.04.2026 and the same is disputed by the learned counsel for the petitioner. In view of the same, the petitioner is directed to appear before the Investigating Officer on or before 30.04.2026 and on such appearance, the Investigating Officer is directed to follow the due procedure as prescribed under the provisions of the BNSS and the guidelines issued by the Hon'ble Apex Court in **Arnesh Kumar** (supra), if not already served the notice. It is needless to mention that the petitioner is entitled to put forth his grievance before the Investigating Officer and he is also entitled to submit the documents, which are in his custody.

8. With the above directions, the Criminal Petition is disposed of.

Miscellaneous applications, pending if any, shall stand closed.

SD/- A.H.S.GOWRI SHANKAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The I Addl. Junior Civil Judge Cum Additional Judicial. 1st Class Magistrate, LB Nagar, RR District
2. The Station House Officer, Balapur Police Station, Hyderabad.
3. One CC to Mr. MOHAMMAD ADNAN Advocate [OPUC]
4. Two CCs to PUBLIC PROSECUTOR High Court for the State of Telangana, at Hyderabad [OUT]
5. Two CD Copies

HIGH COURT

DATED: 17/04/2026



ORDER

CRLP.No.5866 of 2026

The Criminal Petition is Disposed of

27/4/26